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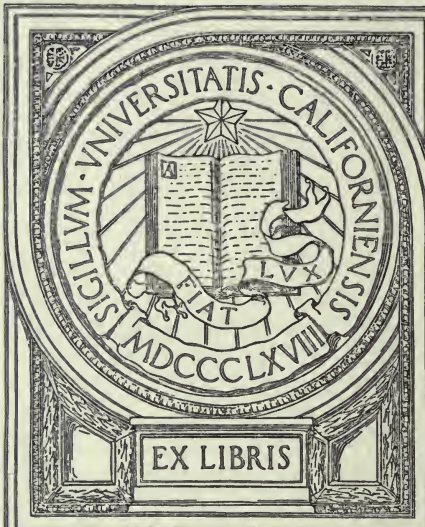

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The Workmen's Compensation Act

(4 GEO. V., CHAP. 25)

With Amendments of 1915

(5 GEO. V., CHAP. 24)

WITH

Regulations of Board, Synopsis, etc.

PRINTED BY ORDER OF
THE LEGISLATIVE ASSEMBLY OF ONTARIO

1915

TORONTO:
Printed by L. K. CAMERON, Printer to the King's Most Excellent Majesty

The Workmen's Compensation Act

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CONSOLIDATED FOR CONVENIENCE

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EXCHANGE

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SYNOPSIS OF ACT

A New Code of Law.

The Workmen's Compensation Act was passed by the Ontario Legislature on 1st May, 1914, and became operative as respects payment of compensation on 1st January, 1915.

A number of amendments were made to it on 8th April, 1915, relating chiefly to matters of detail and not involving any change in principle.

The Act was framed by Sir William Meredith, the present Chief Justice of Ontario, and embodies what may be described as a new code of law respecting compensation for accidents to workmen.

Employments Covered.

The part of the Act which is to be administered by the Board is called Part I. It does not apply to all employments, but it applies to employments in the very large number of industries enumerated in Schedule 1 and Schedule 2, chief among which are manufacturing, building, construction, lumbering, mining quarrying, transportation, navigation, operation of public utilities, etc.

The distinction between the two Schedules is that as to employers in the industries in Schedule 1 the Board levies an assessment and collects an accident fund out of which the compensation to workmen is paid, the employers in this Schedule not being individually liable to pay the compensation; while as to employers in Schedule 2, no accident fund is collected from them, but they are individually liable to pay the compensation as each accident occurs.

When Compensation Payable.

The compensation for the injury is payable irrespective of any question of negligence or absence of negligence, and the old defences of common employment and voluntary assumption of risk are no longer applicable. The only cases in which compensation is not payable, provided the accident arises out of and in the course of the employment, are:

(1) Where the disability lasts less than seven days;

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(2) Where the accident is attributable solely to the serious and wilful misconduct of the workman and does not result in death or serious disablement.

No agreement to forego the benefits of the Act is valid; no part of the amount payable to the accident fund by the employer is to be charged against the workman; and the compensation cannot be assigned, charged, or attached, except with the approval of the Board.

An employer in Schedule 1 may carry himself on his wage list at a reasonable salary, not exceeding $2,000 per annum, and if he makes return to the Board accordingly he or his dependants will be entitled to compensation as in the case of an ordinary workman.

Compensation is to be paid for the industrial diseases specified in the Act as well as for accidents.

The provisions of the Act respecting compensation are in lieu of the right of action for damages at law.

Scale of Compensation.

The scale of compensation is fixed by the Act.

If the accident results in death and the workman leaves a widow but no children, the widow is entitled during life or widowhood to a payment of $20 a month.

If he leaves a widow and children the payment to the widow is $20 a month and $5 a month for each child under 16 years of age, but not exceeding $40 in all.

If he leaves children only, the payment is $10 a month for each child under 16, but not exceeding $40 in all.

Where the dependants are persons other than those above mentioned, they are entitled to a sum reasonable and proportionate to the pecuniary loss occasioned to them by the workman's death, but not exceeding to the parent or parents $20 a month, or in the whole $30 a month.

All the above is governed, however, by the provision that in no case is the compensation to exceed 55 per cent. of the workman's earnings in the employment; and all provisions for compensation are subject to the proviso that the earnings of a workman shall not in any case be reckoned at more than $2,000 a year.

The necessary expenses of burial, not exceeding $75, are also in all cases to be paid, and where there are no dependants reasonable expenses of medical attendance, nursing, care and maintenance are also to be paid.

Where a widow marries again the periodical payment ceases on her marriage, but she is entitled within a month after her marriage to a lump sum equal to two years' payments.

Where the accident results in total disability of the workman, he is entitled during the continuance of the disability, whether for life or temporarily, to a weekly or monthly payment equal to 55 per cent. of his earnings in the employment.

Where the workman is only partially disabled he is entitled to 55 per cent. of the impairment of his earning capacity.

An important feature of the compensation under the Act is that it is payable periodically rather than in a lump sum, and as a rule it continues during disability or during life, as the case may be.

Where the impairment of earning capacity does not exceed 10 per cent. the compensation is to be fixed by the Board at a lump sum, unless the Board thinks it is not to the advantage of the workman to do so; and the Board may in other cases fix the compensation at a lump sum if it sees fit, or may in cases of special need make lump sum advances without entirely commuting the compensation.

Settling Compensation.

All questions as to right to compensation and the amount of it are to be determined by the Board and its officers instead of in the Courts.

The employer is required by the Act to notify the Board, within three days, of any accident happening to a workman in his employ which disables the workman from earning full wages.

The workman must, as soon as practicable and before voluntarily leaving the employ, give notice of the accident to the employer, and, where the compensation is payable out of the accident fund (being in all cases under Schedule 1), also to the Board, and must make claim for compensation within six months.

Forms supplied by the Board are required to be filled up by the workman, by the employer, and by the doctor, where one has been in attendance, and forwarded to the Board, and from the particulars given in these reports, and from an examination by a medical referee chosen by the Board, where that is deemed necessary, the Board will deal with the claim, award payment, make further investigation, or take such other action as seems proper.

How New Law Differs from Old.

Some respects in which the new law differs from the old may be mentioned.

(1) Under the old law an injured workman, or the dependants of a deceased workman, had no right to recover anything unless negligence or breach of duty of the employer could be proved. If he was himself guilty of negligence contributing to the accident he could not recover. If he was injured by the negligence of a fellow-workman, or if it was a case in which he was presumed to have voluntarily assumed the risks of the employment, he was also barred from recovery. Under the new law none of these things is of any consequence. The new law recognizes that the misfortune of a crippled workman or the needs of his widow or children are not any less because he was at fault or someone else was not at fault, and it provides that the workman or his dependants are to be entitled to compensation irrespective of negligence or any other circumstance, except only, as before mentioned, that the accident must not be attributable solely to his own serious and wilful misconduct; and even where it is attributable solely to his serious and wilful misconduct he or his dependants will still be entitled if the accident results in serious disablement or death.

(2) Under the old law the compensation was a lump sum fixed by the jury or by the judge, varying greatly in different cases. Under the new law there is greater certainty and a more equitable rule as to the amount. A very important feature of difference in the new law is the periodical continued payment instead of a lump sum in settlement of damages. Often lump sums in damages recovered by a widow or other dependants have been badly invested, fritted away, or otherwise lost, and the widow and children perhaps in the end left without support. The policy of the new Act is to provide continued support.

(3) Under the old law if the employer and the employee did not agree upon a settlement the remedy was an action at law. This often meant long and expensive litigation,

loss of time, and annoyance, and perhaps in the end not a very satisfactory result. The ordinary workman would often prefer to do without damages or compensation rather than undertake the trouble and expense; and perhaps he did not have the money and could not proceed without it. On the other hand, in many cases, claims for damages would be brought against employers without just grounds, and litigation and expense would be entailed; and often the employer, rather than fight the lawsuit, would settle. In this way the old system of recovering damages by lawsuit was unsatisfactory and oppressive to one or both parties. Those who deserved compensation most often got nothing, while some not entitled harassed employers with vexatious actions. Under the new law all matters as to the right to and the amount of compensation are settled by the Board with little or no expense to the parties and without any appeal. Employers in Schedule 1 will no longer be liable to pay or to be sued for damages, but will be liable only to contribute to the fund out of which the compensation is to be paid.

Collection of Accident Fund.

All employers in the industries in Schedule 1 are required, without notice, and subject to penalty in case of default, to prepare and transmit to the Board statements of the amount of wages paid and expected to be paid by them. Assessments are levied for such sums as are deemed necessary for each class of industry, and after receiving notice of assessment employers must transmit the amount to the Board in accordance with the terms of the notice. Employers failing to make pay roll returns may be assessed for such sum as the Board deems right. In case of failure to pay any assessment judgment may be entered in the County or District Court, or other means of enforcing payment may be taken, and while in default the employer will also be liable for the compensation payable in respect of any accidents to workmen in his employ. If any employer is for any reason not assessed, he is nevertheless liable to pay the amount for which he should have been assessed. Audits of pay roll statements will be made by the officers of the Board from time to time, and errors in amount or classification or otherwise will be corrected.

Employers commencing any industry after an assessment has been made are required forthwith, under penalty, to notify the Board of the fact, and security may be required in the case of any industry carried on only temporarily.

A person letting work to be done by contract is responsible for seeing that the contractor and any sub-contractor

pay their proper assessment, and if he fails to do so is himself personally liable to the Board for it.

Wherever any employer included in Schedule 1 would be entitled to a lien under *The Mechanics' and Wage Earners' Lien Act,* it is the duty of the owner as defined by that Act to see that assessments are paid by such employer, and if he fails to do so the owner will be personally liable to pay them to the Board.

Employers in the industries included in Schedule 2 are not required to contribute to the accident fund, but as accidents occur from time to time they must pay the compensation fixed by the Board. They are, however, to be assessed for contribution to the expenses of administration.

Accident Prevention.

Employers in the industries included in any class may form themselves into an association for accident prevention and may make rules for that purpose, and when such rules are approved by the Board and by the Lieutenant-Governor in Council they shall be binding upon all the employers in the class. Such an association may, in accordance with such rules, appoint an inspector or expert for accident prevention, and his salary may be paid in whole or in part by the Board, and the Board may make a grant toward the expenses of any such association.

Committee of Employers.

Employers in any class in Schedule 1 may appoint a committee of not more than five of their number to watch over their interests and to approve payment of claims or act as a medium of communication with the Board.

Part II of the Act.

Though not covered by the new code of law and not under the jurisdiction of the Board, it may be mentioned that, with the exception of farm laborers and menial and domestic servants, workmen omitted or excluded from Schedule 1 and Schedule 2 have, by Part II of the Act, had their right of action in the ordinary courts extended by the taking away of the employers' defences of common employment and assumed risk and by making contributory negligence only a ground for reduction of damages instead of a bar to recovery, and these workmen are thus in a better position than under the old law.

Further Information.

For full particulars as to what industries and what employers and workmen are covered by Part I of the Act, Schedule 1 and Schedule 2 (which will be found in their amended form at the end of the Act) should be referred to; and with them should be read sections 109, 69 (2), 2 (2), 3 (4), 6, 11, 12, 75, and paragraphs (*p*), (*n*), (*d*), (*i*), (*k*) and (*f*) of 2 (1), and Regulations 43 to 50, 52, 53 and 63. A circular, known as Circular 3, contains this information in more convenient form.

For more complete information upon other points the Act should also be perused.

Copies of this synopsis printed in booklet form, copies of the Act and Regulations, or of Circular 3 above mentioned, forms for pay roll statements, and forms for reports of accidents, or other information concerning the Act, may be obtained on application to *The Workmen's Compensation Board, Normal School Buildings, Toronto.*

PROCLAMATION

WHEREAS, by an Act passed by the Legislature of our Province of Ontario at the Session thereof held in the fourth year of Our Reign, intituled "The Workmen's Compensation Act," it is enacted by Section 3 thereof that where in any employment to which Part I of the said Act applies, personal injury by accident arising out of and in the course of the employment is, after a day to be named by proclamation of the Lieutenant-Governor in Council, caused to a workman, his employer shall be liable to provide or to pay compensation in the manner and to the extent thereinafter mentioned except as therein provided;

AND WHEREAS it has appeared expedient to Our Lieutenant-Governor in Council that a Proclamation should now issue, naming a day for the purpose aforesaid;

NOW KNOW YE THAT, having taken the premises into Our Royal Consideration, We, by and with the advice of Our Executive Council of Our Province of Ontario, and in the exercise of the power in US vested in this behalf by the said in part recited Act or otherwise howsoever, DO, by this Our Royal Proclamation, Hereby name midnight between the 31st day of December, 1914, and the 1st day of January, 1915, as the time from and after which compensation to workmen shall be provided or paid under and in accordance with the provisions of the said Act;

Of all which premises all Our loving subjects and all other whom it doth or may in anywise concern are hereby required to take notice and govern themselves accordingly;

IN TESTIMONY WHEREOF We have caused these Our letters to be made Patent and the Great Seal of Our said Province of Ontario to be hereunto affixed;
WITNESS:

HIS HONOUR SIR JOHN MORISON GIBSON, Knight Commander of Our Most Distinguished Order of St. Michael and St. George, A Colonel in Our Militia of Canada, etc., etc., etc., LIEUTENANT-GOVERNOR OF OUR PROVINCE OF ONTARIO, at Our Government House in Our City of Toronto, in Our said Province, this twenty-fourth day of September, in the Year of Our Lord one thousand nine hundred and fourteen, and in the fifth year of Our Reign.

By Command :

W. J. HANNA,
Provincial Secretary.

The Workmen's Compensation Act

ONTARIO

With Amendments of 1915

Note.—Consolidated for convenience, references to the amendments being shown in Italics at the end of the sections.

The Workmen's Compensation Act, 4 Geo. V., chap. 25, was passed 1st May, 1914, and became operative as respects payment of compensation on 1st January, 1915.

The amending Act, 5 Geo. V., chap. 24, was passed 8th April, 1915, but by section 34 thereof all its provisions except those contained in sections 10, 93a and 98a of this consolidation have effect from the commencement of The Workmen's Compensation Act.

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

PRELIMINARY.

1. This Act may be cited as *The Workmen's Compensation Act.* Short title.

2.—(1) In this Act:— Interpretation.

(*a*) "Accident" shall include a wilful and an intentional act, not being the act of the workman and a fortuitous event occasioned by a physical or natural cause; "Accident."

(*b*) "Accident Fund" shall mean the fund provided for the payment of compensation, outlays and expenses under this Act in respect of Schedule 1; (*As amended by s. 1 (1), c. 24, 1915*); "Accident fund."

(*c*) "Board" shall mean Workmen's Compensation Board; "Board."

(*d*) "Construction" shall include re-construction, repair, alteration and demolition; "Construction."

(*e*) "Dependants" shall mean such of the members of the family of a workman as were wholly or partly dependent upon his earnings at the time of his death or who but for the incapacity due to the accident would have been so dependent; "Dependants."

"Employer." (*f*) "Employer" shall include every person having in his service under a contract of hiring or apprenticeship, written or oral, express or implied, any person engaged in any work in or about an industry, and where the services of a workman are temporarily let or hired to another person by the person with whom the workman has entered into such a contract the latter shall be deemed to continue to be the employer of the workman whilst he is working for that other person;

"Employment." (*g*) "Employment" shall include employment in an industry or any part, branch or department of an industry;

"Industrial disease." (*h*) "Industrial disease" shall mean any of the diseases mentioned in Schedule 3, and any other disease which by the Regulations is declared to be an industrial disease;

"Industry." (*i*) "Industry" shall include establishment, undertaking, trade and business;

"Invalid." (*j*) "Invalid" shall mean physically or mentally incapable of earning;

"Manufacturing." (*k*) "Manufacturing" shall include making, preparing, altering, repairing, ornamenting, printing, finishing, packing, assembling the parts of and adapting for use or sale any article or commodity;

"Medical referee." (*l*) "Medical Referee" shall mean medical referee appointed by the Board;

"Member of the family." (*m*) "Member of the Family" shall mean and include wife, husband, father, mother, grandfather, grandmother, stepfather, stepmother, son, daughter, grandson, granddaughter, stepson, stepdaughter, brother, sister, half-brother and half-sister, and a person who stood *in loco parentis* to the workman or to whom the workman stood *in loco parentis,* whether related to him by consanguinity or not so related, and where the workman is the parent or grandparent of an illegitimate child, shall include such child, and where the workman is an illegitimate child shall include his parents and grandparents;

(*n*) "Outworker" shall mean a person to whom articles or materials are given out to be made up, cleaned, washed, altered, ornamented, finished, repaired, or adapted for sale in his own home or on other premises not under the control or management of the person who gave out the articles or materials; "Outworker."

(*o*) "Regulations" shall mean Regulations made by the Board under the authority of this Act; "Regulations."

(*p*) "Workman" shall include a person who has entered into or works under a contract of service or apprenticeship, written or oral, express or implied, whether by way of manual labour, or otherwise, but when used in Part I shall not include an outworker, or a person engaged in clerical work and not exposed to the hazards incident to the nature of the work carried on in the employment. (*As amended by s. 1 (2), c. 24, 1915*). "Workman."

(2) The exercise and performance of the powers and duties of:— Municipal corporations, etc., and school boards.

(*a*) a municipal corporation;

(*b*) a public utilities commission;

(*c*) any other commission having the management and conduct of any work or service owned by or operated for a municipal corporation;

(*d*) the board of trustees of a police village; and

(*e*) a school board,

shall for the purposes of Part I be deemed the trade or business of the corporation, commission, board of trustees or school board, but the obligation to pay compensation under Part I shall apply only to such part of the trade or business as, if it were carried on by a company or an individual, would be an industry for the time being included in Schedule 1 or Schedule 2, and to workmen employed in or in connection therewith.

PART I.

COMPENSATION.

Compensation to workmen.

3.—(1) Where in any employment to which this Part applies personal injury by accident arising out of and in the course of the employment is after a day to be named by proclamation of the Lieutenant-Governor in Council caused to a workman his employer shall be liable to provide or to pay compensation in the manner and to the extent hereinafter mentioned except where the injury:—

Exceptions.

(*a*) does not disable the workman for the period of at least seven days from earning full wages at the work at which he was employed, or

(*b*) is attributable solely to the serious and wilful misconduct of the workman unless the injury results in death or serious disablement.

Presumptions.

(2) Where the accident arose out of the employment, unless the contrary is shown, it shall be presumed that it occurred in the course of the employment, and where the accident occurred in the course of the employment, unless the contrary is shown, it shall be presumed that it arose out of the employment.

Compensation to date from disability.

(3) Where compensation for disability is payable it shall be computed and be payable from the date of the disability.

Section not to apply to casual employment.

(4) This section shall not apply to a person whose employment is of a casual nature and who is employed otherwise than for the purposes of the employer's trade or business.

Employers individually liable.

4. Employers in the industries for the time being included in Schedule 2 shall be liable individually to pay the compensation.

Employers liable to contribute to the accident fund.

5. Employers in the industries for the time being included in Schedule 1, shall be liable to contribute to the accident fund as hereinafter provided, but shall not be liable individually to pay the compensation.

Accident happening out of Ontario.

6.—(1) Where an accident happens while the workman is employed elsewhere than in Ontario, which would entitle him or his dependants to compensation under this Part if it had happened in Ontario, the workman or his dependants shall be entitled to compensation under this Part—

(*a*) If the place or chief place of business of the employer is situate in Ontario, and the residence and the usual place of employment of the workman are in Ontario, and his employment out of Ontario has lasted less than six months; or

(*b*) If the accident happens on a steamboat, ship or vessel, or on a railway, and the workman is a resident of Ontario and the nature of the employment is such that in the course of the work or service which the workman performs it is required to be performed both within and without Ontario.

(2) Except as provided by subsection 1, no compensation shall be payable under this Part where the accident to the workman happens elsewhere than in Ontario.

Where employer individually liable.

(3) Compensation payable in respect of an accident happening elsewhere than in Ontario shall, except where the employer has fully contributed to the accident fund in respect of all the wages of workmen in his employ who are engaged in the business or work in which the accident happens, be paid by the employer individually, and the business or work carried on elsewhere than in Ontario by an employer who has not so contributed to the accident fund shall be deemed to be in Schedule 2. (*As amended by s. 2, c. 24, 1915*).

Where compensation payable by law of foreign country, workman to elect.

7.—(1) Where by the law of the country or place in which the accident happens the workman or his dependants are entitled to compensation in respect of it they shall be bound to elect whether they will claim compensation under the law of such country or place or under this Part and to give notice of such election, and if such election is not made and notice given it shall be presumed that they have elected not to claim compensation under this Part.

How election to be made.

(2) Notice of the election, where the compensation under this Part is payable by the employer individually, shall be given to the employer, and where the compensation is payable out of the accident fund to the Board and shall be given in both cases within three months after the happening of the accident, or in case it results in death, within three months after the death or within such longer period as either before or after the expiration of such three months the Board may allow.

Dependants not resident in Ontario.

8.—(1) Where a dependant is not a resident of Ontario he shall not be entitled to compensation unless by the law

of the place or country in which he resides the dependants of a workman to whom an accident happens in such place or country if resident in Ontario would be entitled to compensation and where such dependants would be entitled to compensation under such law the compensation to which the non-resident dependant shall be entitled under this Part shall not be greater than the compensation payable in the like case under that law.

Exception.

(2) Notwithstanding the provisions of subsection 1 the Board may award such compensation or sum in lieu of compensation to any such non-resident dependant as may be deemed proper and may pay the same out of the accident fund, or order it to be paid by the employer, as the case may be. (*As amended by s. 3, c. 24, 1915*).

Where workman entitled to action against person other than employer, action may be brought.

9.—(1) Where an accident happens to a workman in the course of his employment under such circumstances as entitle him or his dependants to an action against some person other than his employer the workman or his dependants if entitled to compensation under this Part may claim such compensation or may bring such action.

Workman entitled to difference between compensation under Act and amount collected.

(2) If an action is brought and less is recovered and collected than the amount of the compensation to which the workman or his dependants are entitled under this Part the difference between the amount recovered and collected and the amount of such compensation shall be payable as compensation to such workman or his dependants.

Subrogation of employer or Board to rights of workman.

(3) If the workman or his dependants elect to claim compensation under this Part the employer, if he is individually liable to pay it, and the Board if the compensation is payable out of the accident fund shall be subrogated to the rights of the workman or his dependants and may maintain an action in his or their names against the person against whom the action lies and any sum recovered from him by the Board shall form part of the accident fund.

How election to be made.

(4) The election shall be made and notice of it shall be given within the time and in the manner provided by section 7.

No right of action as between persons in Schedule 1.

(5) This section shall not give any right to an employer in Schedule 1, or to a workman of an employer in Schedule 1, to bring an action against any employer in Schedule 1, but in any case where it appears to the satisfaction of the Board that a workman of an employer in any class in Schedule 1 is injured or killed owing to the negligence of an employer or the workman of an employer in another class in Schedule 1, the Board may direct that the compensation

awarded in any such case shall be charged against the class to which such last mentioned employer belongs. (*Added by s. 4, c. 24, 1915*).

Principals and contractors.

10.—(1) Where the compensation is payable by the employer individually and a person, in this section referred to as the principal, in the course of or for the purposes of his trade or business contracts with any other person, in this section referred to as the contractor, for the execution by or under the contractor of the whole or any part of any work undertaken by the principal, the principal shall be liable to pay to any workman employed in the execution of the work the compensation which he would have been liable to pay if that workman had been immediately employed by him.

(2) Subsection 1 shall not apply where the accident happens elsewhere than on or in or about the premises upon which the principal has undertaken to execute the work or which are otherwise under his control or management. (*As amended by s. 5, c. 24, 1915*).

Liability of principal to pay assessments.

(3) Where a person, whether carrying on an industry included in Schedule 1 or not, in this section referred to as the principal, contracts with any other person, in this section referred to as the contractor, for the execution by or under the contractor of the whole or any part of any work for the principal, it shall be the duty of the principal to see that any sum which the contractor or any sub-contractor is liable to contribute to the accident fund is paid, and if any such principal fails to do so he shall be personally liable to pay it to the Board, and the Board shall have the like powers and be entitled to the like remedies for enforcing payment as it possesses or is entitled to in respect of an assessment. (*Added by s. 5, c. 24, 1915*).

(4) Where compensation or contribution to the accident fund is claimed from the principal, in this part reference to the principal shall be substituted for reference to the employer, except that the amount of compensation or contribution shall be calculated with reference to the earnings of the workman under the employer by whom he is immediately employed. (*As amended by s. 5, c. 24, 1915*).

Right of indemnity.

(5) Where the principal is liable to pay compensation or contribute to the accident fund under this section he shall be entitled to be indemnified by any person who should have paid the same, and all questions as to the right to and the amount of any such indemnity shall be determined by the Board. (*As amended by s. 5, c. 24, 1915*).

(6) Nothing in this section shall prevent a workman claiming compensation or the Board collecting contribution to the accident fund from the contractor or any sub-contractor instead of the principal. (*As amended by s. 5, c. 24, 1915*).

Member of family of employer employed as workman.

11. Where compensation is payable out of the accident fund, a member of the family of an employer, or the dependants of such member, shall not be entitled to compensation unless such member was at the time of the accident carried on the pay roll of the employer and his wages were included in the then last statement furnished to the Board under section 78 nor for the purpose of determining the compensation shall his earnings be taken to be more than the amount of his wages, as shown by such pay roll and statement. (*As amended by s. 6, c. 24, 1915*).

Where employer carried on pay roll he and dependants entitled to compensation.

12. Where compensation is payable out of the accident fund and an employer carries himself on his pay roll at a salary or wage which the Board deems reasonable, but not exceeding the rate of $2,000 per annum, and includes such salary or wages in his then last statement furnished to the Board under section 78, such employer shall be deemed to be a workman within the meaning of this Act, and he or his dependants shall be entitled to compensation accordingly, but for the purpose of determining the compensation his earnings shall not be taken to be more than the amount of his salary or wages as shown by such pay roll and statement. (*As amended by s. 7, c. 24, 1915*).

No action to be brought to recover compensation.

13. No action shall lie for the recovery of the compensation whether it is payable by the employer individually or out of the accident fund, but all claims for compensation shall be heard and determined by the Board.

Workman entitled to compensation residing out of Ontario.

14. If a workman receiving a weekly or other periodical payment ceases to reside in Ontario he shall not thereafter be entitled to receive any such payment unless a medical referee certifies that the disability resulting from the injury is likely to be of a permanent nature and if a medical referee so certifies and the Boards so directs the workman shall be entitled quarterly to the amount of the weekly or other periodical payments accruing due if he proves in such manner as may be prescribed by the Regulations his identity and the continuance of the disability in respect of which the same is payable.

Provisions of Act in lieu of

15.—(1) The provisions of this Part shall be in lieu of all rights and rights of action, statutory or otherwise, to

which a workman or his dependants are or may be entitled against the employer of such workman for or by reason of any accident happening to him on or after the first day of January, 1915, while in the employment of such employer, and no action in respect thereof shall lie. all rights of action against employer.

(2) Any party to an action may apply to the Board for adjudication and determination of the question of the plaintiff's right to compensation under this Part, or as to whether the action is one the right to bring which is taken away by this Part, and such adjudication and determination shall be final and conclusive. (*As amended by s. 8, c. 24, 1915*). Determination of workman's right to bring action.

16. It shall not be competent for a workman to agree with his employer to waive or to forego any of the benefits to which he or his dependants are or may become entitled under this Part and every agreement to that end shall be absolutely void. Right to compensation may not be waived.

17.—(1) Where the compensation is payable by an employer individually no agreement between a workman or dependant and the employer for fixing the amount of the compensation or by which the workman or dependant accepts or agrees to accept a stipulated sum in lieu or in satisfaction of it shall be binding on the workman or dependant unless it is approved by the Board. Agreement as to compensation not valid unless approved by the Board.

(2) Subsection 1 shall not apply to compensation for temporary disability lasting for less than four weeks, but in such cases the Board may, on the application of the workman or dependant, or of its own motion, set aside the agreement on such terms as may be deemed just. (*As amended by s. 9, c. 24, 1915*). Exceptions.

(3) Nothing in this section shall be deemed to authorize the making of any such agreement except with respect to an accident that has happened and the compensation to which the workman or dependant has become entitled because of it.

18.—(1) It shall not be lawful for an employer, either directly or indirectly, to deduct from the wages of any of his workmen any part of any sum which the employer is or may become liable to pay to the workman as compensation under this Part or to require or to permit any of his workmen to contribute in any manner towards indemnifying the employer against any liability which he has incurred or may incur under this Part. Deduction not to be made from wages.

(2) Every person who contravenes any of the provisions of subsection 1 shall for every such contravention incur a Penalty.

penalty not exceeding $50 and shall also be liable to repay to the workman any sum which has been so deducted from his wages or which he has been required or permitted to pay in contravention of subsection 1.

Compensation not assignable or liable to attachment.

19. Unless with the approval of the Board no sum payable as compensation or by way of commutation of any weekly or other periodical payment in respect of it shall be capable of being assigned, charged or attached, nor shall it pass by operation of law except to a personal representative nor shall any claim be set off against it.

Notice of accident to be given.

20.—(1) Subject to subsection 5 compensation shall not be payable unless notice of the accident is given as soon as practicable after the happening of it and before the workman has voluntarily left the employment in which he was injured and unless the claim for compensation is made within six months from the happening of the accident or in case of death within six months from the time of death.

Nature of notice.

(2) The notice shall give the name and address of the workman and shall be sufficient if it states in ordinary language the cause of the injury and where the accident happened.

Service of notice.

(3) The notice may be served by delivering it at or sending it by registered post addressed to the place of business or the residence of the employer, or where the employer is a body of persons, corporate or unincorporate, by delivering it at or sending it by registered post addressed to the employer at the office or if there are more offices than one at any of the offices of such body of persons.

Notice to Board.

(4) Where the compensation is payable out of the accident fund the notice shall also be given to the Board by delivering it to or at the office of the Secretary or by sending it to him by registered post addressed to his office.

Failure to give, or defect in notice not to affect right to compensation in certain cases.

(5) Failure to give the prescribed notice or any defect or inaccuracy in a notice shall not bar the right to compensation if in the opinion of the Board the employer was not prejudiced thereby or where the compensation is payable out of the accident fund if the Board is of opinion that the claim for compensation is a just one and ought to be allowed.

Workman to submit to examination.

21.—(1) A workman who claims compensation, or to whom compensation is payable under this Part, shall if so required by his employer submit himself for examination by a duly qualified medical practitioner provided and paid for by the employer, and shall if so required by the Board submit himself for examination by a medical referee.

(2) A workman shall not be required at the request of his employer to submit himself for examination otherwise than in accordance with the Regulations. In accordance with Regulations.

22.—(1) Where a workman has upon the request of his employer submitted himself for examination, or has been examined by a duly qualified medical practitioner selected by himself, and a copy of the report of the medical practitioner as to the workman's condition has been furnished in the former case by the employer to the workman and in the latter case by the workman to the employer the Board may, on the application of either of them, refer the matter to a medical referee. In case of difference between medical examiners, etc., reference may be made to medical referee.

(2) The medical referee to whom a reference is made under the next preceding subsection or who has examined the workman by the direction of the Board under subsection 1 of section 21, shall certify to the Board as to the condition of the workman and his fitness for employment, specifying where necessary the kind of employment, and if unfit, the cause of such unfitness, and his certificate unless the Board otherwise directs shall be conclusive as to the matters certified. (*As amended by s. 10, c. 24, 1915*). Certificate of medical referee when final.

(3) If a workman does not submit himself for examination when required to do so as provided by subsection 1 of section 21, or on being required to do so does not submit himself for examination to a medical referee under that subsection or under subsection 1 of this section, or in any way obstructs any examination, his right to compensation or if he is in receipt of a weekly or other periodical payment his right to it shall be suspended until such examination has taken place. Failure to submit to examination or obstructing it.

22*a*. Where in any case, in the opinion of the Board, it will be in the interest of the accident fund to provide a special surgical operation or other special medical treatment for a workman, and the furnishing of the same by the Board is, in the opinion of the Board, the only means of avoiding heavy payment for permanent disability, the expense of such operation or treatment may be paid out of the accident fund. (*Added by s. 11, c. 24, 1915*). Special medical treatment in certain cases.

23. Any weekly or other periodical payment to a workman may be reviewed at the request of the employer or of the workman, if the compensation is payable by the employer individually, or, if the compensation is payable out of the accident fund, of the Board's own motion or at the request of the workman and on such review the Board may put an Review of compensation.

end to or diminish or may increase such payment to a sum not beyond the maximum hereinafter prescribed.

Increase of compensation to workmen under 21.

24. Where the workman was at the date of the accident under twenty-one years of age and the review takes place more than six months after the accident the amount of a weekly payment may be increased to the sum to which he would have been entitled if his average earnings had at the date of the accident been equal to what if he had not been injured he would probably have been earning at the date of the review.

Commutation of payments for lump sum.

25.—(1) Where the compensation is payable by an employer individually, the employer may, with the consent of the workman or dependant to whom it is payable and with the approval of the Board, but not otherwise, and where it is payable out of the accident fund, the Board may commute the weekly or other periodical payments payable to a workman or a dependant for a lump sum.

Lump sum to be paid to Board.

(2) Where the lump sum is payable by the employer individually it shall be paid to the Board.

Application of lump sum.

(3) The lump sum may be:—

(*a*) applied in such manner as the workman or dependant may direct;

(*b*) paid to the workman or dependant;

(*c*) invested by the Board and applied from time to time as the Board may deem most for the advantage of the workman or dependant;

(*d*) paid to trustees to be used and employed upon and subject to such trusts and for the benefit of such persons as, in case it is payable by the employer individually, the workman or dependant directs and the Board approves, or, if payable out of the accident fund, as may be desired by the workman or dependant and approved by the Board;

(*e*) applied partly in one and partly in another or others of the modes mentioned in clauses (*a*), (*b*), (c) and (d),

as the Board may determine.

(4) Where the compensation is payable out of the accident fund, the Board may in any case where in its opinion the interest or pressing need of the workman or dependant warrants it, advance or pay to or for the workman or dependant such lump sum as the circumstances warrant and as the Board may determine. (*Added by s. 32, c. 24, 1915*).

Commutation of weekly payments.

26.—(1) Where a weekly or other periodical payment is payable by the employer individually and has been continued for not less than six months, the Board may on the application of the employer allow the liability therefor, to be commuted by the payment of a lump sum of such an amount as, if the disability is permanent, would purchase an immediate annuity from a life insurance company approved by the Board, equal to seventy-five per cent. of the annual value of the weekly or other periodical payments, and in other cases of such an amount as the Board may deem reasonable.

Application of lump sum.

(2) The sum for which a payment is commuted under subsection 1 shall be paid to the Board and shall be dealt with in the manner provided by section 25.

Insurance company required to commute weekly or other periodical payment.

27.—(1) Where an employer insured by a contract of insurance of an insurance company or any other underwriter is individually liable to make a weekly or other periodical payment to a workman or his dependants and the payment has continued for more than six months the liability shall, if the Board so directs before the expiration of twelve months from the commencement of the disability of the workman or his death, if the accident resulted in death, be commuted by the payment of a lump sum in accordance with the next preceding section, and the company or underwriter shall pay the lump sum to the Board, and it shall be dealt with in the manner provided by section 25.

(2) This section shall not apply to a contract of insurance entered into before the passing of this Act.

Board may require employer to pay sum sufficient to commute.

28. The Board may require an employer who is individually liable to pay the compensation to pay to the Board a sum sufficient to commute in accordance with section 26, any weekly or other periodical payments which are payable by the employer and such sum shall be applied by the Board in the payment of such weekly or other periodical payments as they from time to time become payable, but if the sum paid to the Board is insufficient to meet the whole of such weekly or other periodical payments the employer shall nevertheless be liable to make such of them as fall due after the sum paid to the Board is exhausted, and if the sum paid is more than sufficient for that purpose the

excess shall be returned to the employer when the right to compensation comes to an end. (*As amended by s. 12, c. 24, 1915*).

Board may require employer to insure his workmen.

29. The Board may require an employer who is individually liable to pay the compensation to insure his workmen and keep them insured against accidents in respect of which he may become liable to pay compensation in a company approved by the Board for such amount as the Board may direct, and in default of his doing so the Board may cause them to be so insured and may recover the expense incurred in so doing from the employer in the same way as payment of assessments may be enforced. (*As amended by s. 13, c. 24, 1915*).

Where employer insured Board may require insurer to pay amount payable to employer directly to Board.

30.—(1) Where an employer who is individually liable to pay the compensation is insured against his liability to pay compensation, the Board may require the insurance company or other underwriter to pay the sum which under the contract of insurance such company or underwriter would be liable to pay to the employer in respect of an accident to a workman who becomes, or whose dependants become, entitled to compensation under this Part, directly to the Board in discharge or in discharge *pro tanto* of the compensation to which such workman or his dependants are found to be entitled.

Notice to be given to insurer.

(2) In any case to which subsection 1 applies where a claim for compensation is made notice of the claim shall be given to the insurance company or other underwriter and to the employer, and the Board shall determine not only the question of the right of the workman or dependant to compensation but also the question whether the whole or any part of it should be paid directly by the insurance company or other underwriter as provided by subsection 1.

Sec. 25 to apply.

(3) Section 25 shall apply to the compensation payable to the Board under subsection 1.

In case of permanent disability employer may be required to pay capital sum.

31.—(1) Where the accident causes permanent disability, either total or partial, or the death of the workman and the compensation is payable by the employer individually the Board may require the employer to pay to the Board such sum as in its opinion will be sufficient with the interest thereon if invested so as to earn interest at the rate of 5 per cent. per annum to meet the future payments to be made to the workman or his dependants, and such sum when paid to the Board shall be invested by it and shall form a fund to meet such future payments.

(2) The Board, instead of requiring the employer to make the payment provided for by subsection 1, may require him to give such security as the Board may deem sufficient for the future payments. or to give security for payment of compensation.

32. Where a right to compensation is suspended under the provisions of this Part no compensation shall be payable in respect of the period of suspension. Compensation not payable during suspension.

SCALE OF COMPENSATION.

33.—(1) Where death results from an injury the amount of the compensation shall be:— Compensation in case of death.

(*a*) The necessary expenses of the burial of the workman not exceeding $75;

(*b*) Where the widow or an invalid husband is the sole dependant, a monthly payment of $20;

(*c*) Where the dependants are a widow or an invalid husband and one or more children, a monthly payment of $20, with an additional monthly payment of $5 for each child under the age of 16 years, not exceeding in the whole $40;

(*d*) Where the dependants are children, a monthly payment of $10 to each child under the age of 16 years, not exceeding in the whole $40;

(*e*) Where the dependants are persons other than those mentioned in the foregoing clauses, a sum reasonable and proportionate to the pecuniary loss to such dependants occasioned by the death, to be determined by the Board, but not exceeding to the parents or parent $20 per month, and not exceeding in the whole $30 per month. (*As amended by s. 14 (a), c. 24, 1915*).

(2) In the case provided for by clause (*e*) of subsection 1, the payments shall continue only so long as in the opinion of the Board it might reasonably have been expected that the workman lived he would have continued to contribute to the support of the dependants. (*As amended by s. 14 (b), c. 24, 1915*). Duration of payments under clause (f) of subsection 1.

(3) Where there are both total and partial dependants the compensation may be allotted partly to the total and partly to the partial dependants. Compensation to dependants.

Board may apply payment for benefit of children.

(4) Where the Board is of opinion that for any reason it is necessary or desirable that a payment in respect of a child should not be made directly to its parent, the Board may direct that the payment be made to such person or be applied in such manner as the Board may deem most for the advantage of the child.

Compensation not to exceed percentage of wages in certain cases.

(5) Exclusive of the expenses of burial of the workman, the compensation payable as provided by subsection 1 shall not in any case exceed 55 per cent. of the average monthly earnings of the workman mentioned in section 37, and if the compensation payable under that subsection would in any case exceed that percentage it shall be reduced accordingly, and where several persons are entitled to monthly payments the payments shall be reduced proportionately. (*As amended by s. 14 (c), c. 24, 1915*).

Marriage of widow.

34.—(1) If a dependant widow marries the monthly payments to her shall cease, but she shall be entitled in lieu of them to a lump sum equal to the monthly payments for two years and such lump sum shall be payable within one month after the day of her marriage.

Exception.

(2) Subsection 1 shall not apply to payments to a widow in respect of a child.

When payments to child to cease.

35. A monthly payment in respect of a child shall cease when the child attains the age of 16 years or dies.

Expense of medical attendance where no dependants.

36. Where a workman leaves no dependants such sum as the Board may deem reasonable for the expenses of his medical attendance, nursing, care and maintenance and of his burial shall be paid to the persons to whom such expenses are due. (*As amended by s. 15, c. 24, 1915*).

Compensation in case of permanent total disability.

37. Where permanent total disability results from the injury the amount of the compensation shall be a weekly payment during the life of the workman equal to 55 per cent. of his average weekly earnings during the previous twelve months if he has been so long employed, but if not then for any less period during which he has been in the employment of his employer.

Permanent partial disability.

38.—(1) Where permanent partial disability results from the injury the compensation shall be a weekly payment of 55 per cent. of the difference between the average weekly earnings of the workman before the accident and the average amount which he is earning or is able to earn in some suit-

able employment or business after the accident and the compensation shall be payable during the lifetime of the workman.

Payment of lump sum.

(2) Where the impairment of the earning capacity of the workman does not exceed 10 per cent. of his earning capacity instead of such weekly payment the Board shall, unless in the opinion of the Board it would not be to the advantage of the workman to do so, direct that such lump sum as may be deemed to be the equivalent of it shall be paid to the workman.

Temporary total disability.

39. Where temporary total disability results from the injury the compensation shall be the same as that prescribed by section 37, but shall be payable only so long as the disability lasts.

Temporary partial disability.

40. Where temporary partial disability results from the injury the compensation shall be the same as that prescribed by section 38, but shall be payable only so long as the disability lasts and subsection 2 of that section shall apply.

How average earnings to be computed.

41.—(1) Average earnings shall be computed in such a manner as is best calculated to give the rate per week or month at which the workman was remunerated but not so as in any case to exceed the rate of $2,000 per annum.

In case of shortness of service or its casual nature.

(2) Where owing to the shortness of the time during which the workman was in the employment of his employer or the casual nature of his employment or the terms of it, it is impracticable to compute the rate of remuneration as of the date of the accident regard may be had to the average weekly or monthly amount which during the twelve months previous to the accident was being earned by a person in the same grade employed at the same work by the same employer, or if there is no person so employed then by a person in the same grade employed in the same class of employment and in the same locality.

Where two or more employers.

(3) Where the workman has entered into concurrent contracts of service with two or more employers under which he worked at one time for one of them and at another time for another of them his average earnings shall be computed on the basis of what he would probably have been earning if he had been employed solely in the employment of the employer for whom he was working at the time of the accident.

Meaning of employment by same employer concurrently.

(4) Employment by the same employer shall mean employment by the same employer in the grade in which the workman was employed at the time of the accident uninterrupted by absence from work due to illness or any other unavoidable cause.

Special expenses not to be included.

(5) Where the employer was accustomed to pay the workman a sum to cover any special expenses entailed on him by the nature of his employment that sum shall not be reckoned as part of his earnings.

(6) Where in any case it seems more equitable, the Board may award compensation, having regard to the earnings of the workman at the time of the accident. (*Added by s. 16, c. 24, 1915*).

Matters to be considered in fixing payments.

42.—(1) In fixing the amount of a weekly or monthly payment regard shall be had to any payment, allowance or benefit which the workman may receive from his employer during the period of his disability, including any pension, gratuity or other allowance provided wholly at the expense of the employer.

(2) Where the compensation is payable out of the accident fund any sum deducted from the compensation under subsection 1 may be paid to the employer out of the accident fund.

Provision for fortnightly or monthly payments.

43. The Board may wherever it is deemed advisable provide that the payments of compensation may be fortnightly or monthly instead of weekly, or where the workman or dependant is not a resident of Ontario or ceases to reside therein may otherwise fix the periods of payment or commute the compensation as the Board may deem proper. (*As amended by s. 17, c. 24, 1915*).

Payments in case of infant.

44. Where a workman or a dependant is an infant under the age of 21 years or under any other legal disability the compensation to which he is entitled may be paid to such person or be applied in such manner as the Board may deem most for his advantage.

THE WORKMEN'S COMPENSATION BOARD.

Workmen's Compensation Board, how constituted.

45. There is hereby constituted a Commission for the administration of this Part to be called "The Workmen's Compensation Board," which shall consist of three members to be appointed by the Lieutenant-Governor in Council and shall be a body corporate. (*As amended by s. 18, c. 24, 1915*).

Chairman.

46.—(1) One of the Commissioners shall be appointed by the Lieutenant-Governor in Council to be the Chairman of the Board and he shall hold that office while he remains a member of the Board and another of the Commissioners shall be appointed by the Lieutenant-Governor in Council Vice-Chairman of the Board.

Vice-Chairman.

When Vice-Chairman may act.

(2) In the absence of the Chairman or in case of his inability to act or if there is a vacancy in the office, the Vice-Chairman may act as and shall have all the powers of the Chairman.

Appointment of Commissioner pro tempore.

47.—(1) In the case of the death, illness or absence from Ontario of a Commissioner or of his inability to act from any cause the Lieutenant-Governor in Council may appoint some person to act *pro tempore* in his stead and the person so appointed shall have all the powers and perform all the duties of a Commissioner.

(2) Subsection 1 shall apply in the case of the Chairman of the Board as well as in the case of any other member of it.

Presumption where Vice-Chairman has acted.

48. Where the Vice-Chairman appears to have acted for or instead of the Chairman it shall be conclusively presumed that he so acted for one of the reasons mentioned in the next preceding subsection.

Tenure of office of Commissioners.

49. Each Commissioner shall, subject to section 50, hold office during good behaviour but may be removed at any time for cause.

Age limit.

50. Unless otherwise directed by the Lieutenant-Governor in Council a Commissioner shall cease to hold office when he attains the age of 75 years.

Commissioners to give whole time to duties.

51. Each of the Commissioners shall devote the whole of his time to the performance of his duties under this Part.

Salaries.

52. The salary of the Chairman shall be $10,000 per annum, the salary of the Vice-Chairman shall be $8,500 per annum, and the salary of the other Commissioner shall be $7,500 per annum, and such salaries shall be payable out of the Consolidated Revenue Fund.

Quorum.

53. The presence of two Commissioners shall be necessary to constitute a quorum of the Board.

Vacancy not to impair authority if two members remain.

54. A vacancy in the Board shall not if there remain two members of it impair the authority of such two members to act.

Powers of Board.

55. The Board shall have the like powers as the Supreme Court for compelling the attendance of witnesses and of examining them under oath, and compelling the production of books, papers, documents and things.

Commissioners to be disqualified in certain cases.

56.—(1) A Commissioner shall not directly or indirectly:—

(*a*) have, purchase, take or become interested in any industry, to which this Part applies or any bond, debenture or other security of the person owning or carrying it on;

(*b*) be the holder of shares, bonds, debentures or other securities of any company which carries on the business of employers' liability or accident insurance;

(*c*) have any interest in any device, machine, appliance, patented process or article which may be required or used for the prevention of accidents.

(2) If any such industry, or interest therein, or any such share, bond, debenture, security, or thing comes to or becomes vested in a Commissioner by will or by operation of law and he does not within three months thereafter sell and absolutely dispose of it he shall cease to hold office.

Offices of Board and sittings.

57. The offices of the Board shall be situated in the city of Toronto and its sittings shall be held there, except where it is expedient to hold sittings elsewhere, and in that case sittings may be held in any part of Ontario.

Proceedings of Board.

58. The Commissioners shall sit at such times and conduct their proceedings in such manner as they may deem most convenient for the proper discharge and speedy despatch of business.

Appointment of Secretary and officers.

59.—(1) The Board shall appoint a Secretary and a Chief Medical Officer and may appoint such auditors, actuaries, accountants, inspectors, medical referees, other officers, clerks and servants as the Board may deem necessary for carrying out the provisions of this Part and may prescribe their duties and, subject to the approval of the Lieutenant-Governor in Council, may fix their salaries. (*As amended by s. 19, c. 24, 1915*).

Tenure of office.

(2) Every person so appointed shall hold office during the pleasure of the Board.

Jurisdiction of Board.

60.—(1) The Board shall have exclusive jurisdiction to examine into, hear and determine all matters and questions arising under this Part and as to any matter or thing in

respect to which any power, authority or discretion is conferred upon the Board, and the action or decision of the Board thereon shall be final and conclusive and shall not be open to question or review in any court and no proceedings by or before the Board shall be restrained by injunction, prohibition or other process or proceeding in any court or be removable by *certiorari* or otherwise into any court.

(2) Without thereby limiting the generality of the provisions of subsection 1, it is declared that such exclusive jurisdiction shall extend to determining:

(*a*) Whether any industry or any part, branch or department of any industry falls within any of the classes for the time being included in Schedule 1, and if so which of them;

(*b*) Whether any industry or any part, branch or department of any industry falls within any of the classes for the time being included in Schedule 2, and if so which of them;

(*c*) Whether any part of any such industry constitutes a part, branch or department of an industry within the meaning of Part I.

Power to reconsider.

(3) Nothing in subsection 1 shall prevent the Board from reconsidering any matter which has been dealt with by it or from rescinding, altering or amending any decision or order previously made, all which the Board shall have authority to do.

Power of Board as to awarding compensation for expenses.

61. The Board may award such sum as it may deem reasonable to the successful party to a contested claim for compensation or to any other contested matter as compensation for the expenses he has been put to by reason of or incidental to the contest and an order of the Board for the payment by an employer of any sum so awarded when filed in the manner provided by section 63 shall become a judgment of the Court in which it is filed and may be enforced accordingly.

Board may act on report of officers.

62.—(1) The Board may act upon the report of any of its officers and any inquiry which it shall be deemed necessary to make may be made by any one of the Commissioners or by an officer of the Board or some other person appointed to make the inquiry, and the Board may act upon his report as to the result of the inquiry.

(2) The person appointed to make the inquiry shall for the purposes of the inquiry have all the powers conferred upon the Board by section 55.

Enforcement of orders of Board.

63. An order of the Board for the payment of compensation by an employer who is individually liable to pay the compensation or any other order of the Board for the payment of money made under the authority of this Part, or a copy of any such order certified by the Secretary to be a true copy may be filed with the clerk of any county or district court and when so filed shall become an order of that court and may be enforced as a judgment of the court.

Regulations.

64.—(1) The Board may make such Regulations as may be deemed expedient for carrying out the provisions of this Part and to meet cases not specially provided for by this Part, and a certified copy of every Regulation so made shall be transmitted forthwith to the Provincial Secretary and any Regulation may within one month after it has been received by the Provincial Secretary be disallowed by the Lieutenant-Governor in Council.

Power to Lieutenant-Governor to disallow.

Publication.

(2) Every Regulation which is approved by the Lieutenant-Governor in Council shall immediately after approval or on the day named by him for that purpose become effective, and after the period for disallowance has expired every other Regulation which has not been disallowed shall become effective and every Regulation which has become effective shall be forthwith published in the *Ontario Gazette*.

Penalty.

(3) Every person who contravenes any such Regulation after it has become effective or any rule of an association formed as provided by section 101, which has been approved and ratified as provided by that section shall for every contravention incur a penalty not exceeding $50.

Determination of workman's right to bring action.

(4) Where an action in respect of an injury is brought against an employer by a workman or a dependant the Board shall have jurisdiction upon the application of the employer to determine whether the workman or dependant is entitled to maintain the action or only to compensation under Part I, and if the Board determines that the only right of the workman or dependant is to such compensation the action shall be forever stayed.

Audit of accounts.

65. The accounts of the Board shall be audited by the Provincial Auditor or by an auditor appointed by the Lieutenant-Governor in Council for that purpose and the salary or remuneration of the last mentioned auditor shall be paid by the Board.

Report to Lieutenant-Governor.

66.—(1) The Board shall on or before the 15th day of January in each year make a report to the Lieutenant-Governor of its transactions during the next preceding calendar year and such report shall contain such particulars as the Lieutenant-Governor in Council may prescribe.

(2) Every such report shall be forthwith laid before the Assembly if the Assembly is then in session and if it is not then in session within fifteen days after the opening of the next session. Report to be laid before Assembly.

67. The Superintendent of Insurance or an officer of his Department named by him for that purpose shall once in each year and oftener if so required by the Lieutenant-Governor in Council examine into the affairs and business of the Board for the purpose of determining as to the sufficiency of the accident fund and shall report thereon to the Lieutenant-Governor in Council. Superintendent of insurance to examine into affairs and business of Board.

CONTRIBUTION BY THE PROVINCE.

68. To assist in defraying the expenses incurred in the administration of this Part there shall be paid to the Board out of the Consolidated Revenue Fund such annual sum not exceeding $100,000 as the Lieutenant-Governor in Council may direct. Provincial grant towards costs of administration.

ACCIDENT FUND.

69.—(1) An accident fund shall be provided by contributions to be made in the manner hereinafter provided, by the employers in the classes or groups of industries, for the time being included in Schedule 1, and compensation payable in respect of accidents which happen in any industry included in any of such classes or groups, shall be payable and shall be paid out of the accident fund. How accident fund to be provided. Compensation payable out of accident fund in certain cases.

(2) Notwithstanding the generality of the description of the classes for the time being included in Schedule 1 none of the industries included in Schedule 2 shall form part of or be deemed to be included in any of such classes, unless it is added to Schedule 1 by the Board under the authority conferred by this Part. Industries in Schedule 2 not to contribute.

70. Where at any time there is not money available for payment of the compensation which has become due, without resorting to the reserves the Board may pay such compensation out of the reserves and shall make good the amount withdrawn from the reserves by making a special assessment upon the employers liable to provide the compensation or by including it in a subsequent annual assessment, or where it is for any reason deemed inexpedient to withdraw the amount required from the reserves the Lieutenant-Governor in Council may direct that the same be advanced out of the Consolidated Revenue Fund and in that case the amount advanced shall be collected by a special assessment and when collected shall be paid over to the Treasurer of Ontario. Payment of compensation out of reserves or Consolidated Revenue Fund.

Sufficiency of accident fund to be maintained.

71. It shall be the duty of the Board at all times to maintain the accident fund so that with the reserves, exclusive of the special reserve, it shall be sufficient to meet all the payments to be made out of the fund in respect of compensation as they become payable and so as not unduly or unfairly to burden the employers in any class in future years with payments which are to be made in those years in respect of accidents which have previously happened.

Reserve funds.

72.—(1) Subject to section 91 it shall not be obligatory upon the Board to provide and maintain a reserve fund which shall at all times be equal to the capitalized value of the payments of compensation which will become due in future years unless the Board shall be of opinion that it is necessary to do so in order to comply with the provisions of section 71.

(2) It shall not be necessary that the reserve fund shall be uniform as to all classes but subject to sections 71 and 91 it shall be discretionary with the Board to provide for a larger reserve fund in one or more of the classes than in another or others of them.

Industries not specifically included in classes.

73. If any trade or business connected with the industries of:—

> Lumbering, mining, quarrying, fishing, manufacturing, building, construction, engineering, transportation, operation of electric power lines, waterworks and other public utilities, navigation, operation of boats, ships, tugs and dredges, operation of grain elevators and warehouses; teaming, scavenging and street cleaning; painting, decorating and renovating, dyeing and cleaning;

or any occupation incidental thereto or immediately connected therewith, not included in Schedule 2, is not included in any of the classes mentioned in Schedule 1, the Board shall assign it to an appropriate class or form an additional class or classes embracing the trades or businesses not so included, and until that is done except in so far as it may be otherwise provided by the Regulations such trades and businesses shall together constitute a separate group or class and shall be deemed to be included in Schedule 1.

Jurisdiction of Board.

74.—(1) The Board shall have jurisdiction and authority to:—

As to re-arrangement of classes.

(*a*) re-arrange any of the classes for the time being included in Schedule 1, and withdraw from any class any industry included in it and transfer

it wholly or partly to any other class or form it into a separate class, or exclude it from the operation of Part I;

Establishing other classes.

(*b*) establish other classes including any of the industries which are for the time being included in Schedule 2, or are not included in any of the classes in Schedule 1;

Adding to classes.

(*c*) add to any of the classes for the time being included in Schedule 1, any industry which is not included in any of such classes.

Apportionment of burden of assessment according to hazard of business, etc.

(2) Where in the opinion of the Board the hazard to workmen in any of the industries embraced in a class is less than that in another or others of such industries, or where for any other reason it is deemed proper to do so, the Board may sub-divide the class into sub-classes and if that is done the Board shall fix the percentages or proportions of the contributions to the accident fund which are to be payable by the employers in each sub-class.

Separate accounts to be kept for each class and sub-class.

(3) Separate accounts shall be kept of the amounts collected and expended in respect of every class and sub-class, but for the purpose of paying compensation the accident fund shall, nevertheless, be deemed one and indivisible.

Varying amounts of assessment in certain cases.

(4) Where a greater number of accidents has happened in any industry than in the opinion of the Board ought to have happened if proper precautions had been taken for the prevention of accidents in it, or where in the opinion of the Board the ways, works, machinery or appliances in any industry are defective, inadequate or insufficient the Board may so long as such condition in its opinion continues to exist add to the amount of any contribution to the accident fund for which an employer is liable in respect of such industry such a percentage thereof as the Board may deem just and may assess and levy the same upon such employer, or the Board may exclude such industry from the class in which it is included, and if it is so excluded the employer shall be individually liable to pay the compensation to which any of his workmen or their dependants may thereafter become entitled and such industry shall be included in Schedule 2.

Additional percentage.

Collection and application of additional percentage.

(5) Any additional percentage levied and collected under the next preceding subsection shall be added to the accident fund or applied in reduction of the assessment upon the other employers in the class or sub-class to which the employer from whom it is collected belongs as the Board may determine.

Withdrawing small industries from classes.

75.—(1) The Board may in the exercise of the powers conferred by the next preceding section withdraw or exclude from a class industries in which not more than a stated number of workmen are usually employed and may afterwards add them to the class or classes from which they have been withdrawn, and any industry so withdrawn or excluded shall not thereafter be deemed to be included in Schedule 1 or Schedule 2.

Employers in industries withdrawn under s.s. 1 may elect to become members of class.

(2) Where industries are withdrawn or excluded from a class under the authority of subsection 1, an employer in any of them may, nevertheless, elect to become a member of the class to which but for the withdrawal or exclusion he would have belonged, and if he so elects he shall be a member of that class and as such liable to contribute to the accident fund, and his industry shall be deemed to be embraced in Schedule 1.

Notice of election.

(3) Notice of the election shall be given to the Secretary of the Board and the election shall be deemed to have been made when the notice is received by him.

Powers may be exercised as occasion requires.

76. The powers conferred by the next preceding two sections may be exercised from time to time and as often as in the opinion of the Board occasion may require.

When Regulations become effective.

Publication.

77. A Regulation or order made by the Board under the authority of clause (*a*) or clause (*b*) of subsection 1 of section 74, shall not have any force or effect unless approved by the Lieutenant-Governor in Council, and when so approved it shall be published in the *Ontario Gazette* and shall take effect on the expiration of one month from the first publication of it in the *Ontario Gazette*.

STATEMENTS TO BE FURNISHED BY EMPLOYERS.

Statements to be furnished by employers.

78.—(1) Subject to the Regulations every employer shall not later than three months before the day named by proclamation as mentioned in section 3 and yearly thereafter on or before such date as shall be prescribed by the Board and at such other time or times as it may by order or regulation of the Board be required, prepare and transmit to the Board a statement of the amount of the wages earned by all his employees during the year then last past, or any part thereof specified by the Board, and of the amount which he estimates he will expend for wages during the then current year or any part thereof specified by the Board, and such additional information as the Board may require, both verified by the statutory declaration of the employer or the manager of the business, or where the employer is a corpora-

tion by an officer of the corporation having a personal knowledge of the matters to which the declaration relates. (*As amended by s. 20, c. 24, 1915*).

Separate statements as to branches, etc.

(2) Where the business of the employer embraces more than one branch of business or class of industry the Board may require separate statements to be made as to each branch or class of industry, and such statements shall be made, verified, and transmitted as provided by subsection 1.

Failure to furnish statements.

(3) If any employer does not make and transmit to the Board the prescribed statement within the prescribed time the Board may base any assessment or supplementary assessment thereafter made upon him on such sum as in its opinion is the probable amount of the pay roll of the employer and the employer shall be bound thereby, but if it is afterwards ascertained that such amount is less than the actual amount of the pay roll the employer shall be liable to pay to the Board the difference between the amount for which he was assessed and the amount for which he would have been assessed on the basis of his pay roll.

Penalty.

(4) If an employer does not comply with the provisions of subsection 1 or subsection 2, or if any statement made in pursuance of their provisions is not a true and accurate statement of any of the matters required to be set forth in it the employer for every such non-compliance and for every such statement shall incur a penalty not exceeding $500.

Examination of accounts and books of employer.

79.—(1) The Board and any member of it, and any officer or person authorized by it for that purpose shall have the right to examine the books and accounts of the employer and to make such other enquiry as the Board may deem necessary for the purpose of ascertaining whether any statement furnished to the Board under the provisions of section 78 is an accurate statement of the matters which are required to be stated therein or of ascertaining the amount of the pay roll of any employer, or of ascertaining whether any industry or person is under the operation of Part I and whether in Schedule 1 or Schedule 2, and for the purpose of any such examination and enquiry the Board and the person so appointed shall have all the powers which may be conferred on a commissioner appointed under *The Public Inquiries Act*. (*As amended by s. 21, c. 24, 1915*).

Rev. Stat. c. 18.

Penalty for obstruction.

(2) An employer and every other person who obstructs or hinders the making of the examination and inquiry mentioned in subsection 1 or refuses to permit it to be made shall incur a penalty not exceeding $500.

Officers of Board authorized to take declarations.

(3) Every member of the Board and every officer or person authorized by it to make examination or inquiry under this section shall have power and authority to require and take affidavits, affirmations or declarations as to any matter of such examination or inquiry and to take statutory declarations required under section 78, and in all such cases to administer oaths, affirmations and declarations and certify to the same having been made. (*Added by s. 21, c. 24, 1915*).

Assessment may be made to correspond with pay rolls.

80.—(1) If a statement is found to be inaccurate the assessment shall be made on the true amount of the pay roll as ascertained by such examination and enquiry or if an assessment has been made against the employer on the basis of his pay roll being as shown by the statement the employer shall pay to the Board the difference between the amount for which he was assessed and the amount for which he would have been assessed if the amount of the pay roll had been truly stated, and by way of penalty a sum equal to such difference.

Penalty.

Board may relieve from penalty.

(2) The Board if satisfied that the inaccuracy of the statement was not intentional and that the employer honestly desired to furnish an accurate statement, may relieve him from the payment of the penalty provided for by subsection 1 or any part of it.

Board to have right to inspect premises of employer.

81.—(1) The Board and any member of it and any officer or person authorized by it for that purpose shall have the right at all reasonable hours to enter into the establishment of any employer who is liable to contribute to the accident fund and the premises connected with it and every part of them for the purpose of ascertaining whether the ways, works, machinery or appliances therein are safe, adequate and sufficient and whether all proper precautions are taken for the prevention of accidents to the workmen employed in or about the establishment or premises and whether the safety appliances or safeguards prescribed by law are used and employed therein, or for any other purpose which the Board may deem necessary for the purpose of determining the proportion in which such employer should contribute to the accident fund.

Penalty for obstruction.

(2) An employer and every other person who obstructs or hinders the making of any inspection made under the authority of subsection 1, or refuses to permit it to be made, shall incur a penalty not exceeding $500.

Information obtained not to be divulged.

82.—(1) No officer of the Board and no person authorized to make an inquiry under this Part shall divulge or allow to be divulged except in the performance of his duties or under the authority of the Board any information obtained

by him or which has come to his knowledge in making or in connection with an inspection or inquiry under this Part.

(2) Every person who contravenes any of the provisions of subsection 1 shall incur a penalty not exceeding $50. Penalty.

83. The penalties imposed by or under the authority of this Part shall be recoverable under *The Ontario Summary Convictions Act* and when collected shall be paid over to the Board and shall form part of the accident fund. Recovery and application of penalties. Rev. Stat. c. 90.

ASSESSMENTS.

84.—(1) The Board shall before the day named by proclamation as mentioned in section 3 make a provisional assessment on the employers in each class of such sum as in the opinion of the Board will be sufficient to meet the claims for compensation which will be payable by that class for the first year after the day so named and to meet the expenses of the Board in the administration of this Part for the year, and also to provide a reserve fund to pay the compensation payable in future years in respect of claims in that class for accidents happening in that year, of such an amount as the Board may deem necessary to prevent the employers in future years from being unduly or unfairly burdened with payments which are to be made in those years in respect of accidents which have previously happened. Provisional assessment.

(2) The sums to be so assessed may be either a percentage of the pay rolls of the employers or a specific sum as the Board may determine. How assessment may be based.

(*Subsection 3 of s. 84 repealed by s. 22, c. 24, 1915*).

85.—(1) The Board shall in every year thereafter assess and levy upon the employers in each of the classes such percentage of pay roll or such other rate or such specific sum as, allowing for any surplus or deficit in the class, it shall deem sufficient to pay the compensation during the current year in respect of injuries to workmen in the industries within the class, and to provide and pay the expenses of the Board in the administration of this Part for that year or so much thereof as may not be otherwise provided for, and also to provide a similar reserve fund to that mentioned in subsection 1 of section 84; and such assessments may, if the Board sees fit, be levied provisionally upon the estimate of pay roll given by the employer or upon an estimate fixed by the Board and, after the actual pay roll has been ascertained, adjusted to the correct amount; and the payment of assessments may, Subsequent assessments.

if the Board deems fit, be divided into instalments. (*As amended by s. 23, c. 24, 1915*).

Deduction from pay roll of proportion of wages.

(2) Where the assessment is based on the pay roll of the employer and there is included in it the wages or salary of a workman who has been paid more than at the rate of $2,000 per annum the excess shall be deducted from the amount of the pay roll and the assessment shall be based on the amount of it as so reduced.

Assessments need not be uniform.

(3) It shall not be necessary that the assessment upon the employers in a class or sub-class shall be uniform, but they may be fixed or graded in relation to the hazard of each or of any of the industries included in the class or sub-class.

Rate of assessment to be fixed by the Board.

86.—(1) The Board shall determine and fix the percentage, rate or sum for which each employer is assessed under the provisions of either of the next preceding two sections, or the provisional amount thereof, and such employer shall pay to the Board the amount or provisional amount of his assessment within fifteen days after notice of the assessment and of such amount has been given to him, or where payment is to be made by instalments he shall pay the first instalment within such fifteen days and the remaining instalment or instalments at the time or times specified in such notice. (*As amended by s. 24 (a), c. 24, 1915*).

How notice may be served.

(2) The notice may be sent by post to the employer and shall be deemed to have been given to him on the day on which the notice was posted. (*As amended by s. 24 (b), c. 24, 1915*).

Revision of assessments.

(3) Wherever at any time it appears that a statement or estimate of pay roll upon which an assessment or provisional amount of assessment is based is too low the employer shall upon demand pay to the Board such sum, to be fixed by the Board, as shall be sufficient to bring the payment of assessment up to the proper amount; and payment of any such sum may be enforced in the same manner as the payment of any assessment may be enforced. (*Added by s. 24 (c), c. 24, 1915*).

Insufficient assessment to be made up by supplementary assessments.

87. If the amount realized from any assessment is insufficient for the purpose for which the assessment was made, the Board may make supplementary assessments to make up the deficiency, and section 86 shall apply to such assessments, but the Board may defer assessing for such deficiency until the next annual assessment is made and then include it in such assessment. (*As amended by s. 25, c. 24, 1915*).

All classes may be assessed for deficiency in any of them.

88.—(1) Where any deficiency in the amount realized from any assessment in any class is caused by the failure of some of the employers in that class to pay their share of the assessment or by any disaster or other circumstance which, in the opinion of the Board, would unfairly burden the employers in that class, the deficiency or loss shall be made up by supplementary assessments upon the employers in all the classes and the provisions of section 86 shall apply to such assessments, but the Board may defer assessing for such deficiency or loss until the next annual assessment is made and then include it in such assessment. (*As amended by s. 26 (a), (b), c. 24, 1915*).

Special fund.

(2) The Board may where it deems proper add to the assessment for any class or classes or for all the classes in Schedule 1 a percentage or sum for the purpose of raising a special fund to be laid aside and used to meet the loss arising from any disaster or other circumstance which, in the opinion of the Board, would unfairly burden the employers in any class. (*Added by s. 26 (c), c. 24, 1915*).

Where deficiency made good by employer, mode of application of payment.

89.—(1) If and so far as any deficiency mentioned in the next preceding two sections is afterwards made good wholly or partly by the defaulting employer the amount which shall have been made good shall be apportioned between the other employers in the proportions in which the deficiency was made up by them by the payment of supplementary assessments upon them and shall be credited to them in making the next assessment.

Employer not assessed liable to pay amount for which he should have been assessed.

(2) If for any reason an employer liable to assessment is not assessed in any year he shall nevertheless be liable to pay to the Board the amount for which he should have been assessed, and payment of that amount may be enforced in the same manner as the payment of an assessment may be enforced.

Amount collected to be taken into account in making subsequent assessment.

(3) Any sum collected from an employer under subsection 2 shall be taken into account by the Board in making an assessment in a subsequent year on the employers in the class or sub-class to which such employer belonged.

Employer liable to pay unpaid sums.

90. Notwithstanding that the deficiency arising from a default in the payment of the whole or part of any assessment has been made up by a special assessment a defaulting employer shall continue liable to pay to the Board the amount of every assessment made upon him or so much of it as remains unpaid.

Lieutenant-Governor in Council may require supplementary assessments to be made.

91. Whenever the Lieutenant-Governor in Council is of opinion that the condition of the accident fund is such that with the reserves, exclusive of the special reserve, it is not sufficient to meet all the payments to be made in respect of compensation as they become payable and so as not unduly or unfairly to burden the employers in any class in future years with payments which are to be made in those years in respect of accidents which have happened in previous years, he may require the Board to make a supplementary assessment of such sum as in his opinion is necessary to be added to the fund, and when such a requirement is made the Board shall forthwith make such supplementary assessment and it shall be made in like manner as is hereinbefore provided as to other special assessments and all the provisions of this Part as to special assessments shall apply to it.

Formation of reserves.

92. In order to maintain the accident fund as provided by section 71 the Board may from time to time and as often as may be deemed necessary include in any sum to be assessed upon the employers and may collect from them such sums as may be deemed necessary for that purpose and the sums so collected shall form a reserve fund and shall be invested in securities in which a trustee may by law invest trust moneys.

Penalty for non-payment of assessment.

93. If an assessment or a special assessment is not paid at the time when it becomes payable, the defaulting employer shall be liable to pay and shall pay as a penalty for his default such a percentage upon the amount unpaid as may be prescribed by the Regulations or may be determined by the Board.

Additional liability for failure to pay assessment.

93*a*.—(1) Any employer who refuses or neglects to make or transmit any pay roll return or other statement required to be furnished by him under the provisions of sections 78 or 96, or who refuses or neglects to pay any assessment or special or supplementary assessment or the provisional amount of any assessment, or any instalment or part thereof, shall, in addition to any penalty or other liability to which he may be subject, pay to the Board the full amount or capitalized value, as determined by the Board, of the compensation payable in respect of any accident to a workman in his employ which happens during the period of such default, and the payment of such amount may be enforced in the same manner as the payment of an assessment may be enforced.

Relieving clause.

(2) The Board, if satisfied that such default was excusable, may in any case relieve such employer in whole or in part from liability under this section. (*Added by s. 27, c. 24, 1915*).

Collection of unpaid assessments.

94. Where default is made in the payment of any assessment, or special assessment, or any part of it the Board may issue its certificate stating that the assessment was made, the amount remaining unpaid on account of it and the person by whom it was payable and such certificate or a copy of it certified by the Secretary to be a true copy may be filed with the clerk of any county or district court and when so filed shall become an order of that court and may be enforced as a judgment of the court against such person for the amount mentioned in the certificate.

Board may collect assessment through municipal collectors.

95.—(1) If an assessment or a special assessment or any part of it remains unpaid for 30 days after it has become payable, the Board, in lieu of or in addition to proceeding as provided by the next preceding section, may issue its certificate stating the name and residence of the defaulting employer, the amount unpaid on the assessment, the establishment in respect of which it is payable, and upon the delivery of the certificate to the clerk of the municipality in which the establishment is situate he shall cause the amount so remaining unpaid as stated in the certificate to be entered upon the collector's roll as if it were taxes due by the defaulting employer in respect of such establishment, and it shall be collected in like manner as taxes are levied and collected and the amount when collected shall be paid over by the collector to the Board.

Collector entitled to percentage.

(2) The collector shall be entitled to add five per cent. thereof to the amount to be collected and to retain such percentage for his services in making the collection.

Case of industries established after assessment made.

96.—(1) Where an industry coming within any of the classes for the time being included in Schedule 1 is established or commenced after an assessment has been made it shall be the duty of the employer forthwith to notify the Board of the fact and to furnish to the Board an estimate of the probable amount of his pay roll for the remainder of the year, verified by a statutory declaration, and to pay to the Board a sum equal to that for which he would have been liable if his industry had been established or commenced before such assessment was made or so much thereof as the Board may deem reasonable.

Powers of Board.

(2) The Board shall have the like powers and be entitled to the like remedies for enforcing payment of the sum payable by the employer under subsection 1 as it possesses or is entitled to in respect of assessments.

Penalty.

(3) For default in complying with the provisions of subsection 1 the employer shall incur the like penalty as is provided with respect to defaults by section 78.

Case of industry temporarily carried on.

97.—(1) Where an employer engages in any of the industries for the time being included in Schedule 1 and has not been assessed in respect of it, the Board, if it is of opinion that the industry is to be carried on only temporarily, may require the employer to pay or to give security for the payment to the Board of a sum sufficient to pay the assessment for which the employer would have been liable if the industry had been in existence when the next preceding assessment was made.

Powers of Board.

(2) The Board shall have the like powers and be entitled to the like remedies for enforcing payment of any such sum as it possesses or is entitled to in respect of assessments.

Penalty.

(3) An employer who makes default in complying with the provisions of subsection 1 shall incur a penalty not exceeding $200 and an additional penalty not exceeding $20 per day for every day on which the default continues.

Liability of owner under Rev. Stat. c. 140, for contribution of employer to accident fund.

98. In the case of a work or service performed by an employer in any of the industries for the time being included in Schedule 1 for which the employer would be entitled to a lien under *The Mechanics' and Wage Earners' Lien Act* it shall be the duty of the owner as defined by that Act to see that any sum which the employer is liable to contribute to the accident fund is paid and if any such owner fails to do so he shall be personally liable to pay it to the Board, and the Board shall have the like powers and be entitled to the like remedies for enforcing payment as it possesses or is entitled to in respect of an assessment.

Priority of assessments and compensation in distribution of assets.

98*a*.—(1) There shall be included among the debts which, under *The Assignments and Preferences Act, The Trustee Act,* and *The Ontario Companies Act,* are, in the distribution of the property, in the case of an assignment or death or in the distribution of the assets of a company being wound up, under the said Acts respectively, to be paid in priority to all other debts, the amount of any assessment or compensation the liability wherefor accrued before the date of the assignment or death or before the date of the commencement of the winding up, and the said Acts shall have effect accordingly.

(2) When the compensation is a periodical payment the liability in respect thereof shall, for the purposes of this section, be taken to be the amount of the lump sum, to be determined by the Board, for which the periodical payments may be commuted.

(3) Priority in respect of any individual claim for compensation shall not exceed $500. (*Added by s. 28, c. 24, 1915*).

RETURNS OF ACCIDENTS.

Employers to give notice of accidents.

99.—(1) Every employer shall within three days after the happening of an accident to a workman in his employment by which the workman is disabled from earning full wages notify the Board in writing of the:—

(*a*) happening of the accident and nature of it;

(*b*) time of its occurrence;

(*c*) name and address of the workman;

(*d*) place where the accident happened;

(*e*) name and address of the physician or surgeon, if any, by whom the workman was or is attended for the injury;

Additional information.

and shall in any case furnish such further details and particulars respecting any accident or claim to compensation as the Board may require. (*As amended by s. 29, c. 24, 1915*).

Penalty.

(2) For every contravention of subsection 1 the employer shall incur a penalty not exceeding $50.

INDUSTRIAL DISEASES.

Certain industrial diseases to be deemed accidents.

100.—(1) Where a workman suffers from an industrial disease and is thereby disabled from earning full wages at the work at which he was employed or his death is caused by an industrial disease and the disease is due to the nature of any employment in which he was engaged at any time within twelve months previous to the date of his disablement, whether under one or more employments the workman or his dependants shall be entitled to compensation as if the disease were a personal injury by accident and the disablement were the happening of the accident, subject to the modifications hereinafter mentioned, unless at the time of entering into the employment he had wilfully and falsely represented himself in writing as not having previously suffered from the disease.

By whom compensation payable.

(2) Where the compensation is payable by an employer individually it shall be payable by the employer who last employed the workman during such twelve months in the employment to the nature of which the disease was due.

Names of former employers to be furnished by claimants.

(3) The workman or his dependants if so required shall furnish the employer mentioned in the next preceding subsection with such information as to the names and addresses of all the other employers by whom he was employed in the

employment to the nature of which the disease was due during such twelve months as such workman or his dependants may possess, and if such information is not furnished or is not sufficient to enable that employer to take the proceedings mentioned in subsection 4 that employer upon proving that the disease was not contracted while the workman was in his employment shall not be liable to pay compensation.

Last employer may bring in former employers.

(4) If that employer alleges that the disease was in fact contracted while the workman was in the employment of some other employer he may bring such employer before the Board and if the allegation is proved that other employer shall be the employer by whom the compensation shall be paid.

Where disease result of gradual process, former employers to contribute.

(5) If the disease is of such a nature as to be contracted by a gradual process any other employers who during such twelve months employed the workman in the employment to the nature of which the disease was due shall be liable to make to the employer by whom the compensation is payable such contributions as the Board may determine to be just.

How compensation to be fixed.

(6) The amount of the compensation shall be fixed with reference to the earnings of the workman under the employer by whom the compensation is payable and the notice provided for by section 20 shall be given to the employer who last employed the workman during such twelve months in the employment to the nature of which the disease was due and the notice may be given notwithstanding that the workman has voluntarily left the employment.

Presumptions as to disease being due to nature of employment.

(7) If the workman at or immediately before the date of the disablement was employed in any process mentioned in the second column of Schedule 3 and the disease contracted is the disease in the first column of the Schedule set opposite to the description of the process the disease shall be deemed to have been due to the nature of that employment unless the contrary is proved.

Right to compensation where disease is result of an injury not to be affected.

(8) Nothing in this section shall affect the right of a workman to compensation in respect of a disease to which this section does not apply if the disease is the result of an injury in respect of which he is entitled to compensation under this Part.

FORMATION OF ASSOCIATIONS AND COMMITTEES.

Associations of employers may be formed.

101.—(1) The employers in any of the classes for the time being included in Schedule 1 may form themselves into an association for accident prevention and may make rules for that purpose.

(2) If the Board is of opinion that an association so formed sufficiently represents the employers in the industries included in the class, the Board may approve such rules, and when approved by the Board and by the Lieutenant-Governor in Council they shall be binding on all the employers in industries included in the class. Rules of Associations if approved to be binding on the members of the class.

(3) Where an association under the authority of its rules appoints an inspector or an expert for the purpose of accident prevention, the Board may pay the whole or any part of the salary or remuneration of such inspector or expert out of the accident fund or out of that part of it which is at the credit of any one or more of the classes as the Board may deem just. Payment of salary of inspector or expert out of accident fund.

(4) The Board may in any case where it deems proper make a grant toward the expenses of any such association. (*Added by s. 30, c. 24, 1915*).

(5) Any moneys paid by the Board under this section shall be charged against the class represented by such association and levied as part of the assessment against such class. (*Added by s. 30, c. 24, 1915*). Grant to safety associations.

(6) The word "class" in this section shall include sub-class or such part of a class or such number of classes or parts of classes in Schedule 1 as may be approved by the Board. (*Added by s. 30, c. 24, 1915*). "Class" defined.

102.—(1) The employers in any of the classes for the time being included in Schedule 1 may appoint a Committee of themselves, consisting of not more than five employers, to watch over their interests in matters to which this Part relates. Committee of employers.

(2) Where a claim is for compensation for an injury for which the employers in any such class would be liable, if the Board is of the opinion that the Committee suffiiently represents such employers, and the Committee certifies to the Board that it is satisfied that the claim should be allowed, the Board may act on the certificate and may also act upon the certificate of the Committee as to the proper sum to be awarded for compensation if the workman or dependant is satisfied with the sum named in the certificate. Board may act on certificate of committee as to payment of compensation.

(3) The Committee may be the medium of communication on the part of the class with the Board Medium of communication.

CONTRIBUTION BY EMPLOYERS IN SCHEDULE 2.

Contribution by employers individually liable to expenses of administration.

103. Employers in industries for the time being included in Schedule 2 shall pay to the Board such proportion of the expenses of the Board in the administration of this Part as the Board may deem just and determine, and the sum payable by them shall be apportioned between such employers and assessed and levied in like manner as in the case of assessments for contributions to the accident fund, and the provisions of this Part as to making such assessments shall apply (*mutatis mutandis*) to assessments made under the authority of this section.

Application of Part I.

104. This part shall apply only to the industries mentioned in Schedules 1 and 2 and to such industries as shall be added to them under the authority of this Part and to employments therein.

PART II.

Application of Part II to outworkers, clerks, and casual employees.

105. Subject to section 109 sections 106 to 108 shall apply only to the industries to which Part I does not apply and to the workmen employed in such industries, but outworkers and persons engaged in clerical work and not exposed to the hazards incident to the nature of the work carried on in the employment and persons whose employment is of a casual nature and who are employed otherwise than for the purposes of the employer's trade or business, who are employed in industries under the operation of Part I but who are excluded from the benefit of the provisions of Part I, shall not by this section be excluded from the benefit of the provisions of sections 106 to 108. (*As amended by s. 31, c. 24, 1915*).

Liability of employer for defective ways, works, etc., and for negligence of his servants.

106.—(1) Where personal injury is caused to a workman by reason of any defect in the condition or arrangement of the ways, works, machinery, plant, buildings or premises connected with, intended for or used in the business of his employer or by reason of the negligence of his employer or of any person in the service of his employer acting within the scope of his employment the workman or if the injury results in death the legal personal representatives of the workman and any person entitled in case of death shall have an action against the employer, and if the action is brought by the workman he shall be entitled to recover from the employer the damages sustained by the workman by or in consequence of the injury, and if the action is brought by the legal personal representatives of the workman or by or on behalf of persons entitled to damages under *The Fatal Accidents Act* they shall be entitled to recover such damages as they are entitled to under that Act.

Rev. Stat. c. 151.

(2) Where the execution of any work is being carried into effect under any contract, and the person for whom the work is done owns or supplies any ways, works, machinery, plant, buildings or premises, and by reason of any defect in the condition or arrangement of them personal injury is caused to a workman employed by the contractor or by any sub-contractor, and the defect arose from the negligence of the person for whom the work or any part of it is done or of some person in his service and acting within the scope of his employment, the person for whom the work or that part of the work is done shall be liable to the action as if the workman had been employed by him, and for that purpose shall be deemed to be the employer of the workman within the meaning of this Act, but any such contractor or sub-contractor shall be liable to the action as if this subsection had not been enacted but not so that double damages shall be recoverable for the same injury. Liability of person supplying defective ways, works, plant, etc.

(3) Nothing in subsection 2 shall affect any right or liability of the person for whom the work is done and the contractor or sub-contractor as between themselves. See R.S.O. 1914, cap. 146, s. 4. Liability of contractor and sub-contractor.

(4) A workman shall not by reason only of his continuing in the employment of the employer with knowledge of the defect or negligence which caused his injury be deemed to have voluntarily incurred the risk of the injury. See R.S.O. 1914, cap. 146, s. 6, last part. Effect of continuance in employment after knowledge.

107. A workman shall hereafter be deemed not to have undertaken the risks due to the negligence of his fellow workmen and contributory negligence on the part of a workman shall not hereafter be a bar to recovery by him or by any person entitled to damages under *The Fatal Accidents Act* in an action for the recovery of damages for an injury sustained by or causing the death of the workman while in the service of his employer for which the employer would otherwise have been liable. Certain common law rules abrogated. Rev. Stat. c. 151.

108. Contributory negligence on the part of the workman shall nevertheless be taken into account in assessing the damages in any such action. Contributory negligence to be considered in assessing damages.

109. This Act shall not apply to farm labourers or domestic or menial servants or their employers. Farm labourers and domestic servants excluded.

110. *The Workmen's Compensation for Injuries Act*, being Chapter 146 of the Revised Statutes of Ontario, 1914, is hereby repealed. Rev. Stat. c. 146, repealed.

111. This Part shall take effect on, from and after the day named in the proclamation mentioned in section 3. Date when Part to take effect.

SCHEDULE 1.

INDUSTRIES THE EMPLOYERS IN WHICH ARE LIABLE TO CONTRIBUTE TO THE ACCIDENT FUND.

(*As altered by Regulations*).

Class 1.—Lumbering; logging, river-driving, rafting, booming; saw-mills, shingle-mills, lath-mills; manufacture of veneer, excelsior, staves, spokes, or headings; lumber yards (including the delivery of lumber) carried on in connection with saw-mills; the creosoting of timbers.

Class 2.—Pulp and paper mills.

Class 3. —Manufacture of furniture, interior woodwork, organs, pianos, piano actions, canoes, small boats, coffins, wicker and rattan ware, mattresses, bed-springs, ‡artificial limbs, cork articles, cork carpets or linoleum; **upholstering, **picture framing and **cabinet work.

Class 4.—Planing mills, sash and door factories, manufacture of wooden and corrugated paper boxes, cheese boxes, mouldings, window and door screens, window shades, carpet sweepers, wooden toys, articles and wares or baskets, matches or shade rollers; lumber yards (including the delivery of lumber) carried on in connection with planing mills or sash and door factories; cooperage, not including the making of staves or headings.

Class 5.—‡Mining; reduction of ores and smelting; preparation of metals or minerals; boring and drilling including sinking of artesian wells (except when done by an employer coming under Class 13); manufacture of calcium carbide, carborundum or alundum.

Class 6.—Sand, shale, clay or gravel pits; marble works, stone cutting or dressing; manufacture of brick, tile, terra-cotta, fireproofing, paving blocks, sewer pipe, roof tile, plaster blocks, plaster board, slate or artificial stone.

Sub-Class A of Class 6.—Quarries, stone crushing, lime kilns; manufacture of cement.

Class 7.—Manufacture of glass, glass products, glassware, porcelain or pottery.

Class 8.—Iron, steel, or metal foundries; rolling mills; manufacture of castings, forgings, heavy engines, locomotives, machinery, safes, anchors, cables, rails, shafting, wires, tubing, pipes, shot, sheet metal, boilers, furnaces, stoves, structural steel, iron or metal.

Class 10.—Manufacture of small castings or forgings, metal wares, instruments, utensils and articles, hardware, nails, wire goods, screens, bolts, metal beds, sanitary, water, gas or electric fixtures, light machines, typewriters, cash registers, adding machines, carriage mountings, bicycles, metal toys, tools, cutlery, instruments, sheet metal products, buttons of metal, ivory, pearl or horn, dry batteries, cameras, sporting goods, firearms, windmills, ivory articles, **rubber stamps, pads or stencils; **machine shops, not elsewhere included in Schedule 1 or Schedule 2; **the industry of carrying on a blacksmith shop.

Class 11.—Manufacture of agricultural implements, threshing machines, traction engines, waggons, carriages, sleighs, vehicles, automobiles, motor trucks, toy waggons, sleighs or baby carriages; car shops.

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* See Regulation 43.
† See Regulation 44.
‡ See Regulation 45.
** See Regulation 46.

Class 12.—Manufacture of gold or silverware, platedware, †watches, watch-cases, †clocks, †jewellery, or musical instruments.

Class 13.—Manufacture of chemicals, corrosive acids, or salts, ammonia, gasoline, petroleum, petroleum products, celluloid, gas, charcoal, artificial ice, including the handling and delivery thereof; wood alcohol, celluloid articles; the manufacture, transmission and distribution of natural or artificial gas and operations connected therewith; the cutting, storing, handling and delivery of natural ice.

Sub-Class A of Class 13.—The manufacture of fireworks, gunpowder, ammunition, nitro-glycerine, dynamite, gun-cotton or other high explosives.

Class 14.—Manufacture of paint, color, varnish, oil, japans, turpentine, printing ink, printers' rollers, tar, tarred, pitched or asphalted paper.

Class 15.—Distilleries, breweries; manufacture of spirituous or malt liquors, malt, alcohol, wine, vinegar, cider, mineral water, soda waters, or methylated spirits.

Class 16.—Manufacture of non-hazardous chemicals, †drugs, medicines, dyes, extracts, pharmaceutical or toilet preparations, soaps, candles, perfumes, non-corrosive acids or chemical preparations; shoe-blacking or polish, yeast, baking powder or mucilage.

Class 17.—Milling; manufacture of cereals or cattle foods, warehousing or handling of grain or operation of grain elevators, ‡threshing machines, ‡clover mills, or ‡ensilage cutters.

Class 18.—†Manufacture or preparation of meats or meat products or glue.

Sub-Class A of Class 18.—Packing houses, **abattoirs; manufacture of fertilizers not incidental to any other industry.

Class 19.—Tanneries.

Class 20.—Manufacture of leather goods and products, belting, whips, saddlery, †harness, trunks, valises, trusses, imitation leather, †boots, †shoes, gloves, umbrellas, rubber goods, rubber shoes, tubing, tires or hose.

Class 22.—Sugar refineries; manufacture of ‡dairy products, ‡butter, ‡cheese, condensed milk or cream, biscuits, ‡confectionery, spices, condiments, salt or any kind of starch; ‡bakeries.

Sub-Class A of Class 22.—Canning or preparation of fruit, vegetables, fish or food-stuffs; pickle factories.

Class 24.—Manufacture of tobacco, cigars, cigarettes or tobacco products.

Class 26.—Flax mills; manufacture of textiles or fabrics, spinning, weaving and knitting manufactories; manufacture of yarn, thread, hosiery, cloth, blankets, carpets, canvas, bags, shoddy, felt, cordage, ropes, fibre, brooms or brushes; asbestos goods, hair cloth and other hair goods; work in manilla or hemp; tents, awnings, and articles not otherwise specified made from fabrics or cordage; the erection of awnings by the manufacturer.

Class 27.—*Manufacture of men's or women's clothing, whitewear, shirts, collars, corsets, hats, caps, furs, robes, ‡feathers or artificial flowers.

Class 28.—‡Power laundries; ‡dyeing, cleaning or bleaching.

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* See Regulation 43.
† See Regulation 44.
‡ See Regulation 45.
** See Regulation 46.

Class 29.—Printing, photo-engraving, engraving, lithographing, book-binding, embossing; †manufacture of stationery, paper, cardboard boxes, bags, wall-paper, or papier-mache.

Class 30.—Heavy teaming or cartage; safe-moving or moving of boilers, heavy machinery, building stone and the like; warehousing, storage; teaming and cartage, including the hauling for hire by means of any vehicle, howsoever drawn or propelled, of any commodity or material; ‡scavenging, street cleaning or removal of snow or ice.

Class 32.—Steel building and bridge construction; installation of elevators, fire-escapes, boilers, engines or heavy machinery; bridge building, not included in Schedule 2; the erection of windmills.

Class 33.—Bricklaying, mason work, stone setting, concrete work, plastering; manufacture of concrete blocks; structural carpentry, lathing, the installation of pipe organs; house wrecking or house moving.

Class 35.—Painting, decorating or renovating; sheet metal work and roofing.

Class 36.—Plumbing, sanitary or heating engineering, gas and steam fitting; operation of theatre stage or moving pictures; operation of passenger or freight elevators, where workmen are specially employed therefor and which are not operated in connection with an industry included in another class, including the operation of elevators used in connection with an industry to which this Schedule does not apply or in connection with a warehouse or shop or an office or other building or premises.

Class 37.—Sewer construction, tunnelling, shaft-sinking and well-digging; **the maintenance and operation of a waterworks system; excavation work for cellars, foundations and canals; trenching less than 6 feet deep, for gas pipes, water-pipes or wire conduits; and all excavation work where the depth is more than 6 feet and the width is less than half the depth.

Class 38.—Construction, installation or operation of electric power lines or appliances, and power transmission lines; electric wiring of buildings and installation of lighting fixtures; construction or operation of an electric light system; construction and operation of power plants and electric light works, not included in Schedule 2; construction or operation of telegraph or telephone lines, construction or operation of telephone lines and works for the purposes of the business of a telephone company or used or to be used in connection with its business when constructed or operated by the company, except where such telephone lines or works are within the legislative authority of the Parliament of Canada.

Class 41.—Construction or operation of railways; road-making or repair of roads with machinery; making and repairing of roads of all kinds not included in Schedule 2; manufacture of asphalt material and paving material.

Class 43.—Ship-building, dredging, subaqueous construction or pile-driving; fishing, navigation, and operation of all kinds of vessels, stevedoring, operation of and work upon wharves, towing, operation of dry docks and marine wrecking, not included in Schedule 2.

Class 73.—All industries, trades, businesses, and occupations mentioned in section 73 of the Act, not otherwise classified and not included in Schedule 2.

(NOTE.—*See sections* 109, 69 (2), 6 (3), 3 (4), 6, 11, 12, 75 (2), *and paragraphs* (*p*), (*n*), (*d*), (*i*), (*k*), *and* (*f*) *of* 2 (1), *and Regulations* 43 *to* 50, 52, 53, *and* 63).

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* See Regulation 43.
† See Regulation 44.
‡ See Regulation 45.
** See Regulation 46.

SCHEDULE 2.

INDUSTRIES THE EMPLOYERS IN WHICH ARE INDIVIDUALLY LIABLE TO PAY THE COMPENSATION.

1. The trade or business, as defined by subsection 2 of section 2, of a municipal corporation, a public utilities commission, any other commission having the management and conduct of any work or service owned by or operated for a municipal corporation, a board of trustees of a police village and a school board. (*As amended by s.* 33 (*a*), *c.* 24, 1915).

2. The construction or operation of railways operated by steam, electric or other motive power, street railways and incline railways, but not their construction when constructed by any person other than the company which owns or operates the railway.

3. The construction or operation of car shops, machine shops, steam and power plants and other works for the purposes of any such railway or used or to be used in connection with it when constructed or operated by the company which owns or operates the railway.

4. The construction or operation of telephone lines and works within the legislative authority of the Parliament of Canada, for the purposes of the business of a telephone company or used or to be used in connection with its business when constructed or operated by the company. (*As altered by Regulation* 35).

5. The construction or operation of telegraph lines and works for the purposes of the business of a telegraph company or used or to be used in connection with its business when constructed or operated by the company.

6. The construction or operation of steam vessels and works for the purposes of the business of a navigation company or used or to be used in connection with its business when constructed or operated by the company, and all other navigation, towing, operation of vessels, and marine wrecking. (*As amended by s.* 33 (*b*), *c.* 24, 1915).

7. The operation of the business of an express company which operates on or in conjunction with a railway, or of sleeping, parlor or dining cars, whether operated by the railway company, or by an express, sleeping, parlor or dining car company.

(NOTE.—*See sections* 2 (2), 69 (2), 6 (3), 3 (4), 6, 109, *and paragraphs* (*p*), (*n*), (*d*), (*i*), *and* (*f*) *of* 2 (1).)

SCHEDULE 3.

Description of Disease.	Description of Process.
Anthrax.	Handling of wool, hair, bristles, hides, and skins.
Lead poisoning or its sequelæ.	Any process involving the use of lead or its preparations or compounds.
Mercury poisoning or its sequelæ.	Any process involving the use of mercury or its preparations or compounds.
Phosphorus poisoning or its sequelæ.	Any process involving the use of phosphorus or its preparations or compounds.
Arsenic poisoning or its sequelæ.	Any process involving the use of arsenic or its preparations or compounds.
Ankylostomiasis.	Mining.

SYNOPSIS OF REGULATIONS

Up to 15th May, 1915, 64 Regulations in all have been passed by the Board and approved by the Lieutenant-Governor in Council, each clause or section, for convenience, being numbered as a separate Regulation.

Except No. 1, which extended the time within which employers were required to furnish their first pay roll statement; No. 47, which applies the interpretation clauses of the Act to the Regulations; No. 51, which provides for penalty in case of default in paying assessments; Nos. 56 and 59, which prescribe the manner in which compensation is to be paid by employers in Schedule 2; and No. 64, which provides for posting up information concerning the Act—all these Regulations have to do with the classification of industries in Schedule 1, and with additions to, exclusions from, or interpretation of the Schedules.

A number of industries, including as far as could be foreseen those comprised in the general description of Section 73, have been added to their appropriate classes in Schedule 1.

To insure better protection for the payment of compensation, and for greater uniformity, the construction or operation by telephone companies of telephone lines and works within the legislative authority of the Province has been removed from Schedule 2 to Schedule 1.

To avoid, as far as possible, weakness in any of the classes and consequent danger of deficits in the class funds, a number of the classes in Schedule 1 have been united, thus reducing the original 44 classes to 35.

For greater certainty in making clear what was understood to be the intention of the Act, mercantile business, stock-raising, fruit-growing, gardening, hotel-keeping, barber shops, educational, hospital, surgical, medical and veterinary work, dentistry, undertaking, etc., have been expressly excluded from the operation of Part I (see Regulation 43); as also have such operations as coffee grinding, meat cutting, pipe cutting, and boot and shoe making and repairing, when carried on as part of, in immediate connection with, and for the purposes of an exclusively retail business (see Regulation 44).

In other cases where the hazard of the work was considered very light, or where it was considered a matter of practical impossibility, at least in the early stages of the administration of the Act, to obtain the names of and collect assessments from all the employers in the industry, and

where the other employers in the industry would thus be unfairly burdened with the whole expense, a number of exclusions have been made. Among these are hand laundries, window cleaning, cab, livery stable, architect and photograph businesses, work carried on as part of, in immediate connection with, and for the purpose of an exclusively retail business dealing in men's and women's clothing (including merchant tailor and millinery shops) and the trimming of women's hats when carried on as part of or incidental to a wholesale millinery business (see Regulation 43).

For similar reasons, manufacture of cheese, butter, feathers, or artificial flowers, confectioneries, bakeries, power laundries certain prospecting and development work, operation of threshing machines, street cleaning, etc., have been excluded where less than six workmen are usually employed (see Regulation 45).

Machine shops, repair shops, cabinet work (in shop), upholstering, etc., when not incidental to an industry in Schedule 1, are excluded where less than four workmen are usually employed (see Regulation 46).

As to the exclusions mentioned in the last two paragraphs, it is to be remembered, however, that any employer excluded because of having less than a specified number of workmen employed may nevertheless elect to come under Schedule 1 if he chooses (section 75 (2)).

The operation of freight or passenger elevators, which was originally included in every case, is excluded where not in an industry in Schedule 1, if no workman is specially employed for such operation (see Regulations 31, 55).

To preclude the contention that because an employer carries on one industry which is under Part I of the Act, other separate industries carried on by the same employer, even though not otherwise under Part I, are thereby brought under Part I of the Act—that because an employer, for instance, carries on a grist mill which is under Part I of the Act, a grocery store carried on by the same employer as a separate business will also come under Part I of the Act—it is expressly provided that such shall not be the case (see Regulation 48).

To make clear what was believed to be the intention of the Act, it is declared that an incidental service for which no direct charge is made to the customer, such as delivery of material in connection with a planing mill, or delivery of goods in connection with a grocery store, shall be considered as going with the business to which it is attached, and shall be included in or excluded from Schedule 1, according as the business is so included or excluded (see Regulation 49). Upon the other hand, work or service for which a direct charge is made and which is connected with but not a part

of an industry carried on by the employer who renders it, is declared to be included in Schedule 1, if such work or service would, if carried on by itself, be included in Schedule 1 (see Regulation 50). These provisions, however, are subject to the provisions of any other Regulation.

To cover generally a question of interpretation, of which one phase is dealt with in Regulations 49 and 50, but which arises in a great variety of circumstances—namely, the question whether, or to what extent, things not themselves carried on or done by an employer as a business or trade or for profit or gain, but carried on or done by him for his own private use, or as a part of, incidentally to, or for the purpose of another business or trade, are included in Schedule 1 of the Act—Regulation 52 has been passed. The most frequent examples of such things are building or repairing of buildings, warehousing or storage, and teaming or carting. If themselves carried on as a business, these are of course included in Schedule 1; but in a very great many cases they are carried on or done by the employer, not as a business or trade, but for his own private use, or as a part of, incidentally to, or for or for the purpose of another business or trade, and that business or trade may be one that is not included in Schedule 1 or one that is included in Schedule 1. As in keeping with the general intention of the Act, and as a convenient practical working principle, it is laid down by Regulation 52 that anything not itself carried on or done by the employer as a business or trade or for profit or gain, is to be included in Schedule 1 where, and only where, it is carried on or done as a part of or process in, or incidentally to, or for or for the purpose of an industry in Schedule 1. Thus the building or repairing of the employer's private dwelling-house or his grocery store will not be included in Schedule 1, but the building or repairing of his woollen mill will be included in Schedule 1. Similarly, teaming, cartage, warehousing or storage work done for the employer's private dwelling or for his grocery business will not be included in Schedule 1, but similar work done for his woollen mill will be included in Schedule 1. This Regulation, it must be remembered, has application only in cases where the person having the work or operations carried on or done is himself the employer of the workmen, and not in cases where he lets a contract for the doing of the work; in the latter case, of course, the contractor, if he employs workmen, will be under Schedule 1; as he is carrying on the work as a business or trade or for profit or gain he is not affected by the provisions of this Regulation. Nor does this Regulation over-ride any special provision to the contrary, such as the provision respecting elevators, or the provision respecting building which is dealt with in the next paragraph.

In order to cover employers who are in substance carrying on building as a business, it is provided by Regulation 53

that the building of a house or the construction of any part thereof by an employer who within three years prior thereto has built another house, and the construction of any building to sell or let, shall be included in Schedule 1. This Regulation, like the preceding one, has application only in cases where the owner is himself the employer of the workmen. Where the work is let to a contractor there is no need of a Regulation.

For greater certainty, it is declared by Regulation 63 that operations (such for instance as work in the woods or jobs of teaming, etc.), carried on by a person whose business is substantially farming are not under the operation of Part I if less than four workmen other than farm labourers are employed therein.

REGULATIONS OF BOARD

(To May 15, 1915.)

REGULATION 1.

Passed the 1st day of October, 1914.

Approved by the Lieutenant-Governor in Council the 9th day of October, 1914.

The Workmen's Compensation Board hereby makes the following Regulation:—

1. The time within which employers are to transmit to the Workmen's Compensation Board their first pay-roll statement pursuant to section 78 of the Workmen's Compensation Act, is hereby extended to the 31st day of October, 1914.

REGULATIONS 2 TO 50.

Passed the 26th day of November, 1914.

Approved by the Lieutenant-Governor in Council the 26th day of November, 1914.

The Workmen's Compensation Board hereby makes the following Regulations respecting The Workmen's Compensation Act:—

2. Lumber yards (including the delivery of lumber) carried on in connection with saw mills, and the creosoting of timbers, are added to Class 1 of Schedule 1.

3. Manufacture of artificial limbs, cork articles, cork carpets and linoleum, and picture framing and cabinet work are added to Class 3 of Schedule 1.

4. Lumber yards (including the delivery of lumber) carried on in connection with planing mills or sash and door factories, and manufacture of matches and shade rollers are added to Class 4 of Schedule 1.

5. Cooperage, not including the making of staves or headings, is added to Class 4 of Schedule 1.

6. Boring and drilling, including sinking artesian wells (except when done by an employer coming under Class 13) and manufacture of calcium carbide, carborundum and alundum are added to Class 5 of Schedule 1 and removed from any other class in which they might otherwise respectively be.

7. Manufacture of sewer pipe, plaster blocks or plaster board, and manufacture of slate or roof tile are added to Class 6 of Schedule 1.

8. Classes 6 and 31 of Schedule 1 are united as Class 6.

9. Manufacture of shot is added to Class 8 of Schedule 1.

10. Manufacture of dry batteries, cameras, sporting goods, firearms, windmills, ivory articles, rubber stamps, pads or stencils is added to Class 10 of Schedule 1.

11. Machine shops not elsewhere included in Schedule 1 or Schedule 2, and the industry of carrying on a blacksmith shop, are added to Class 10 of Schedule 1.

12. Classes 9 and 11 of Schedule 1 are united as Class 11.

13. Manufacture, transmission and distribution of natural or artificial gas and operations connected therewith, the cutting, storing, handling and delivery of natural ice, as well as the handling and delivery of artificial ice, and the manufacture of wood alcohol and celluloid articles are added to and included in Class 13 of Schedule 1, and wood alcohol is withdrawn from any other class in which it might otherwise be.

14. Manufacture of fire-works, gunpowder, ammunition, nitroglycerine, dynamite, guncotton and other high explosives is constituted into sub-class A of Class 13.

15. Manufacture of methylated spirits is added to Class 15 of Schedule 1.

16. Manufacture of yeast, baking powder and mucilage is added to Class 16 of Schedule 1.

17. Operation of threshing machines, clover mills and ensilage cutters is added to Class 17 of Schedule 1.

18. Manufacture of fertilizer not incidental to any other industry is added to Class 18 of Schedule 1.

19. Manufacture of whips, trusses and imitation leather is added to Class 20 of Schedule 1.

20. Manufacture of salt and the manufacture of starch of all kinds are added to Class 22 of Schedule 1 and are removed from any other class in which either of them might otherwise have been included.

21. Classes 21, 22 and 23 of Schedule 1 are united as Class 22.

22. Manufacture of tents, awnings, and articles not otherwise specified made from fabrics or cordage; the erecting of awnings by the manufacturer; and the manufacture of

asbestos goods, hair cloth and other hair goods are added to Class 26 of Schedule 1.

23. Classes 25 and 26 of Schedule 1 are united as Class 26.

24. Manufacture of feathers and artificial flowers is added to Class 27 of Schedule 1.

25. Manufacture of papier mache articles is added to Class 29 of Schedule 1.

26. Teaming and cartage, including the hauling for hire by means of any vehicle, howsoever drawn or propelled, of any commodity or material, and scavenging, street cleaning, and removal of snow or ice, are added to Class 30 of Schedule 1.

27. Bridge building, not included in Schedule 2, and the erection of windmills are added to Class 32 of Schedule 1 and excluded from any other class in Schedule 1 in which they might otherwise have been included.

28. Lathing, the installation of pipe organs, and house wrecking and house moving are added to Class 33 of Schedule 1.

29. Classes 33 and 34 of Schedule 1 are united as Class 33.

30. Gas and steam-fitting are added to Class 36 of Schedule 1.

31. The operation of freight or passenger elevators where no workman is specially employed therefor, except where used in another industry included in Schedule 1, is withdrawn from Schedule 1, and, subject thereto, the operation of freight or passenger elevators in any industry included in any class in Schedule 1 is transferred from Class 36 to the class in which such industry is included, but the operation of freight or passenger elevators elsewhere than in such an industry shall remain and be in Class 36. (*As amended by 55.*)

32. Maintenance and operation of a waterworks system is added to Class 37 of Schedule 1.

33. Deep excavation is withdrawn from Class 37 of Schedule 1 and excavation work for cellars, foundations and canals; and trenching, less than 6 feet deep, for gas pipes, water pipes or wire conduits; and all excavation work where the depth is more than 6 feet and the width is less than half the depth are added to Class 37.

34. Electric wiring of buildings and installation of lighting fixtures, construction or operation of an electric light

system and construction or operation of power plants and electric light works, not included in Schedule 2, are added to Class 38 of Schedule 1.

35. Construction or operation of telephone lines and works for the purposes of the business of a telephone company or used or to be used in connection with its business, when constructed or operated by the company as mentioned in paragraph 4 of Schedule 2, except where such telephone lines or works are within the legislative authority of the Parliament of Canada, is removed from Schedule 2 and added to Class 38 of Schedule 1.

36. Classes 38 and 39 of Schedule 1 are united as Class 38.

37. Making or repairing of roads of all kinds not included in Schedule 2 is added to Class 41 of Schedule 1.

38. Manufacture of asphalt material and paving material is transferred from Class 6 to Class 41 of Schedule 1.

39. Classes 40 and 41 of Schedule 1 are united as Class 41.

40. Fishing, navigation, and operation of all kinds of vessels, stevedoring, operation of and work upon wharves, towing, operation of dry-docks and marine-wrecking, not included in Schedule 2, are added to Class 43 of Schedule 1. (*As amended by 58.*)

41. Classes 42, 43 and 44 of Schedule 1 are united as Class 43.

42. All industries, trades, businesses and occupations mentioned in section 73 of the Act and not otherwise classified and not included in Schedule 2 shall form a class to be known as Class 73.

43. Subject to any provision elsewhere contained respecting operation of elevators, each of the following industries is excluded from the operation of Part 1, namely:—

(*a*) The business of a florist or seedsman, seed-growing, gardening and horticulture; the keeping or breeding of live stock, poultry or bees; fruit growing; the picking, grading, packing, hauling, handling and storage of fruit or vegetables, carried on by co-operative fruit growers' associations or companies, whose membership or shareholders are limited to the producers of such fruit or vegetables and whose object is to bring about more satisfactory handling and sale thereof and not to carry on such work or operations as a business for profit or gain;

(*b*) Hand laundries;
(*c*) The business of window-cleaning;
(*d*) Barber shops and shoe shine establishments;
(*e*) Manufacture of plaster statuary;
(*f*) Undertaking and funeral directing;
(*g*) Mail carrying;
(*h*) Educational, hospital and surgical work, medical work, veterinary work and dentistry;
(*i*) Wholesale or retail mercantile business;
(*j*) Hotel-keeping and restaurant-keeping;
(*k*) Public garages, livery stables, auction and sales stables and conveyance of passengers or passengers and baggage by horse or auto vehicle;
(*l*) Taxidermy;
(*m*) Junk dealing;
(*n*) The business of an architect;
(*o*) Excavation other than as specified in Regulation 33;
(*p*) Every industry carried on as part of, in immediate connection with, and for the purpose of an exclusively retail business dealing in men's or women's clothing, whitewear, shirts, collars, corsets, hats, caps, furs or robes;
(*q*) The business of a photographer;
(*r*) The trimming of women's hats when carried on as part of or incidental to a wholesale millinery business;
(*s*) The pumping or raising and collecting and conveyance of petroleum by a person who does not refine or otherwise treat the same or prepare or manufacture any product therefrom. (*As amended by 60.*)

44. Each of the following industries when carried on as part of, in immediate connection with, and for the purpose of an exclusively retail business is excluded from the operation of Part I, namely:—

(*a*) Watch, clock and jewellery making and repairing;
(*b*) Boot and shoe making and repairing;
(*c*) Harness-making and repairing;
(*d*) The business of an optician;
(*e*) Tinsmithing and tinsmith repairing in shop only;
(*f*) Pipe cutting;
(*g*) Paper cutting;
(*h*) Drug manufacturing;
(*i*) Sausage manufacturing;
(*j*) Meat cutting;

(*k*) Coffee grinding

and like operations or work.

45. Where less than six workmen are usually employed therein, each of the following industries is withdrawn from the class in Schedule 1 in which it would otherwise be included, namely:—

(*a*) The cutting or splitting of firewood;

(*b*) The manufacture of cheese or butter and the operation of creameries or dairies;

(*c*) The construction or operation of telephone lines or works;

(*d*) The manufacture of artificial limbs;

(*e*) Power laundries, dyeing, cleaning or bleaching establishments;

(*f*) Mining (including prospecting and development work) except in producing mines where the workmen are in the employ of the owner, lessee or recorded holder thereof;

(*g*) Operation of threshing-machines, clover mills and ensilage cutters;

(*h*) Scavenging, street cleaning and removal of snow or ice;

(*i*) Manufacture of feathers or artificial flowers;

(*j*) Confectioneries;

(*k*) Bakeries. (*As amended by 54.*)

NOTE.—Employers excluded by this Regulation have the right to elect to come in by notifying the Secretary; see section 75 (2).

46. Where less than four workmen are usually employed therein, each of the following industries, when not incidental to an industry under Schedule 1, is withdrawn from the class in Schedule 1 in which it would otherwise be included, namely:—

(*a*) Machine shops;

(*b*) Repair shops;

(*c*) Tinsmith shops;

(*d*) Carrying on of a blacksmith shop;

(*e*) Cabinet work;

(*f*) Upholstering;

(*g*) Picture-framing;

(*h*) Maintenance or operation of a waterworks system;

(*i*) Manufacture of rubber stamps, pads or stencils;

(*j*) Butchering. (*As amended by 61.*)

NOTE.—Employers excluded by this Regulation have the right to elect to come in by notifying the Secretary; see section 75 (2).

47. The interpretation of words and phrases provided for in section 2 of The Workmen's Compensation Act shall apply to these and all other Regulations of The Workmen's Compensation Board.

48. Except where otherwise specifically provided, every industry which, if carried on by an employer carrying on no other industry, would not be under the operation of Part I, is excluded from the operation of Part I where it is carried on by an employer who is also carrying on an industry or industries which is or are under the operation of Part I.

49. Subject to any other Regulation of the Board, every undertaking which consists of work or service (for example the delivery of goods), for which no direct charge is made and which is incidental to an industry under Part I, carried on by the employer who performs or renders such work or service, is added to or included in the class in which such industry is included; and when such undertaking is incidental to an industry not under Part I, it is excluded from the operation of Part I.

50. Subject to any other Regulation of the Board, every undertaking which consists of work or service for which a direct charge is made and which is connected with but not a part of an industry (whether such industry is under Part I or not) carried on by the employer who performs or renders such work or service, and which work or service if carried on separately would be an industry under the operation of Part I, is added to or included in the class of industries in which such undertaking if carried on by itself would be included.

REGULATION 51.

Passed the 16th day of December, 1914.

Approved by the Lieutenant-Governor in Council the 31st day of December, 1914.

51. Any employer failing to pay any assessment or special assessment, or any prescribed portion thereof, within fifteen days after notice thereof has been mailed to him by registered post, shall pay as a penalty for such default 5 per cent. of the amount unpaid; and, where default continues longer than one month after the expiration of such fifteen days, shall also pay as further penalty an additional one per cent. of such amount for each calendar month or fraction thereof such longer default continues.

Regulations 52 to 56.

Passed the 30th day of December, 1914.

Approved by the Lieutenant-Governor in Council the 30th day of December, 1914.

52. Unless otherwise specially provided, anything not itself carried on or done by the employer as a business or trade or for profit or gain, if, but for this Regulation, it would be an industry included in Schedule 1, is excluded from the operation of Part I of the Act except where it is carried on or done as a part of or process in, or incidentally to, or for or for the purpose of an industry in Schedule 1 which is carried on as a business or trade or for profit or gain; and where anything not itself carried on or done by the employer as a business or trade or for profit or gain is carried on or done as a part of or process in, or incidentally to, or for or for the purpose of an industry in Schedule 1 which is carried on by the employer as a business or trade or for profit or gain it shall be included in the class in Schedule 1 in which such last mentioned industry is included if it can be fairly assessed as part of such industry, but if it cannot be fairly so assessed, shall be included in the class in Schedule 1 to which, if carried on or done by the employer as a separate business or trade, it would belong.

53. Notwithstanding anything elsewhere contained, the building of a house, or the construction of any part thereof, by an employer who, within three years prior to the commencement of such building, has completed or had completed for him the building of another house, and the building or construction of any building or erection to sell or let in whole or in part, or the construction of any part thereof, shall each, whether or not it is done or carried on as a business or trade or for profit or gain, if not included in Schedule 2, be included in the class or respective classes of Schedule 1 to which according to the nature of the work it should belong.

54. (*Consolidated with 45.*)

55. (*Consolidated with 31.*)

56. Except where otherwise provided or directed, payment of compensation by employers in the industries included in Schedule 2 of the Act shall be made by delivery to the Board of a cheque or other negotiable paper payable at par at any branch of any chartered Bank in Ontario to the order of the workman or dependant to whom the compensation is payable, to be, by the Board, forwarded to such

workman or dependant. This Regulation shall not apply to municipal corporations, school boards, boards of trustees of police villages, public utility commissions, or commissions having the management and conduct of any work or service owned by or operated for a municipal corporation, provided they make prompt payment of the compensation to the workman or dependant and promptly forward his receipt therefor to the Board. (*As amended by 59.*)

REGULATIONS 57 TO 58.

Passed the 13th day of January, 1915.

Approved by the Lieutenant-Governor in Council the 15th day of January, 1915.

57. Canning or preparation of fruit, vegetables, fish or food stuffs, and pickle factories, are constituted into sub-class A of Class 22.

58. (*Consolidated with 40.*)

REGULATIONS 59 TO 64.

Passed the 28th day of April, 1915.

Approved by the Lieutenant-Governor in Council the 7th day of May, 1915.

59. (*Consolidated with 56.*)

60. (*Consolidated with 43.*)

61. (*Consolidated with 46.*)

62. The manufacture of malt and the manufacture of cider are added to Class 15 of Schedule 1.

63. For greater certainty, operations carried on by a person whose business is substantially farming, provided less than four workmen other than farm labourers are employed therein, are declared not to have been included in and are excluded from the operation of Part I.

64. Every employer in Schedule 1 or Schedule 2 shall, as directed by the Board, post up and keep posted up in conspicuous places within easy access of his workmen, such card or pamphlet of information concerning the Act as may be supplied to him by the Board, and a copy of the Act if so directed.

ORDERS.

Packing houses, abattoirs and manufacture of fertilizers not incidental to any other industry, are constituted into a sub-class to be known as sub-class A of Class 18 of Schedule 1.

Stone crushing is added to Class 6 of Schedule 1.

Quarries, stone crushing, lime kilns and manufacture of cement, are constituted into a sub-class to be known as sub-class A of Class 6 of Schedule 1.

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